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The Perils of Early Motherhood *Isabel V. Sawhill*

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Inventing Race, Inventing Racism
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Books In Review

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Elizabeth Arens on The Radical Center
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How to regulate science

FRANCIS FUKUYAMA

SOME new technologies are frightening from the start, and the need to establish political controls over their development and use is obvious to all. When the first atomic bomb was detonated at Alamogordo, New Mexico, in the summer of 1945, not one of the witnesses to this event failed to understand that a terrible new potential for destruction had been created. Nuclear weapons were thus from the very beginning ringed with political controls: Individuals could not freely develop nuclear technology on their own or traffic in the parts necessary to create atomic bombs, and in time, nations that became signatories to the 1968 nonproliferation treaty agreed to control international trade in nuclear technology.

Other new technologies appear to be much more benign,

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and are consequently subject to little or no regulation. Personal computers and the Internet, for example, promised to create wealth, increase access to information, and foster community among their users. People have had to look hard for downsides to the information revolution. What they have found to date are issues like the so-called "digital divide" (i.e., inequality of access to information technology) and threats to privacy, neither of which qualify as earth-shaking matters of justice or morality. Despite occasional efforts on the part of the world's more statist societies to try to control the use of information technology, it has blossomed in recent years with *minimal regulatory oversight on either a national or international level.*

Biotechnology falls somewhere between these extremes. Transgenic crops and human genetic engineering make people far more uneasy than do personal computers or the Internet. But biotechnology also promises important benefits for human health and well-being. When presented with an advance like the ability to cure cystic fibrosis or diabetes, it is hard for people to articulate reasons why their unease with the technology should stand in the way of progress. It is easiest to object to a new biotechnology if its development leads to a botched clinical trial or to a deadly allergic reaction to a genetically modified food. But the real threat of biotechnology is far more subtle and therefore harder to weigh in any utilitarian calculus. It lies in the possibilities of human cloning, "designer babies"—eugenic selection for intelligence, sex, and personality—and eventually, the end of the human species as such.

A call for regulation

In the face of the challenge from a technology like this, where good and bad are intimately connected, there can be only one possible response: We must regulate its development—and set up institutions that will discriminate between those technological advances that further human flourishing, and those that pose a threat to human dignity and well-being. These regulatory institutions must have the power to enforce these discriminations on a national and, ultimately, an international level.

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The debate over biotechnology is today polarized between two camps. The first, which is broadly libertarian, argues that society should not put constraints on the development of new technology. This camp includes researchers and scientists who want to extend the frontiers of science, the biotech industry, which stands to profit from unfettered technological advance, and those who are ideologically committed to free markets, deregulation, and minimal government interference in technology.

The other camp is a heterogeneous group with moral concerns about biotechnology. It consists of people with strong religious convictions, environmentalists with a belief in the sanctity of nature, Luddite opponents of new technology, and those on the Left who are worried about the possible return of eugenics. Members of this group, which range from Jeremy Rifkin to the Catholic church, have proposed banning a wide range of new technologies, from *in vitro* fertilization and stem cell research to transgenic crops and human cloning.

It is imperative that the debate on biotechnology move beyond this polarization. Both approaches—a totally laissez-faire attitude toward biotech development, and a prohibitionary mindset—are misguided and unrealistic. Certain technologies like human cloning do deserve to be banned outright, for reasons both intrinsic and tactical. But for most other forms of biotechnology, a more nuanced regulatory approach will be needed. While many have staked out ethical positions on various technologies, almost no one has been looking concretely at what kinds of institutions will be needed to allow societies to control the pace and scope of technological development.

It has been a long time since anyone has proposed that what the world needs is more regulation. Regulation—and particularly international regulation—is not something that should be called for lightly. Before the Reagan-Thatcher revolutions of the 1980s, many sectors of the economies of North America, Europe, and Japan were vastly overregulated, and many continue to be so today. Regulation brings with it many inefficiencies and even pathologies. But in the end, there are certain types of social problems that can only be addressed through formal government control, and biotechnology is one of them.

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Who decides?

Who gets to decide whether we control a new biotechnology, and with what authority? During the 2001 debate in the U.S. Congress on bills to ban human cloning, Congressman Ted Strickland of Ohio insisted that we be guided solely by the best available science, and that "we should not allow theology, philosophy, or politics to interfere with the decision we make on this issue."

There are many who would agree with this statement. Opinion polls show that the public holds scientists in much higher regard than politicians, not to mention theologians or philosophers. Legislators, as we well know, like to posture, exaggerate, argue by anecdote, pound the table, and pander. They can speak and act out of ignorance, and are often heavily influenced by lobbyists and entrenched interests. Why should they, rather than the disinterested community of researchers, have the final say on highly complex and technical issues like biotechnology? Efforts by politicians to limit what scientists do in their own domain evoke memories of the medieval Catholic church branding Galileo a heretic for saying the earth revolves around the sun. Since the time of Francis Bacon, the pursuit of scientific research has been seen to carry its own legitimacy as an activity that serves the broader interests of mankind. This view is, unfortunately, not correct.

Science alone cannot establish the ends to which it is put. Science can discover vaccines and cures for diseases, but it can also create infectious agents; it can uncover the physics of semiconductors but also the physics of the hydrogen bomb. Science *qua* science is indifferent to whether or not data is gathered under rules that scrupulously protect the rights of human research subjects. Data, after all, is data, and better data can often be obtained by bending the rules or ignoring them altogether. A number of the Nazi doctors who injected concentration camp victims with infectious agents or tortured prisoners by freezing or burning them to death were in fact professionally trained scientists who gathered real data that could potentially be put to good use.

It is only "theology, philosophy, or politics" that can establish the ends of science and technology. Scientists may help to establish moral rules concerning their own conduct, but they

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do so not as scientists but as scientifically informed members of a broader political community. There are very many brilliant, dedicated, energetic, ethical, and thoughtful people within the community of research scientists and doctors working in the field of biomedicine. But their interests do not necessarily correspond to the public interest. Scientists are strongly driven by ambition and often have pecuniary interests in a particular technology or medicine as well. Hence the question of what we do with biotechnology is a political issue that cannot be decided technocratically.

The answer to the question of who decides the legitimate and illegitimate uses of science has been established by several centuries of political theory and practice: It is the democratically constituted political community, acting chiefly through its elected representatives, that is sovereign in these matters and has the authority to control the pace and scope of technological development. While there are all sorts of problems with democratic institutions today, from special-interest lobbying to populist posturing, there is also no set of institutions that can better capture the will of the people in a fair and legitimate way. We can surely hope that politicians make decisions that are informed by a sophisticated understanding of science. History is full of cases where laws were made based on bad science, for example the eugenics legislation passed in the United States in the early twentieth century. But in the final analysis, science itself is just a tool for achieving human ends; the political community must decide which ends to pursue.

When we turn to the question of establishing a regulatory regime for human biotechnology, we face a rather different problem. The issue is not whether it should be scientists or politicians who make choices regarding scientific research, but whether it should be individual parents or the government who decide what reproductive decisions are permissable. James Watson has argued that it should be individual mothers rather than a group of male regulators:

> My principle here is pretty simple: just have most of the decisions made by women as opposed to men. They're the ones who bear children, and men, as you know, often sneak away from children that aren't healthy. We're going to have to feel more

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> responsible for the next generation. I think women should be allowed to make the decisions, and as far as I'm concerned, keep these male doctor committees out of action.

Counterpoising the judgment of male bureaucrats against the concerns of loving mothers is a clever rhetorical strategy, but it is beside the point. Male judges, officers, and social workers (as well as a lot of female ones) already interfere in the lives of women all the time, telling them that they must not neglect or abuse their children, that they have to send their children to school rather than making them earn money for the family, and that they must not give their children drugs or arm them with weapons. The fact that most women will use their authority responsibly doesn't eliminate the need for rules, particularly when technology makes possible all sorts of highly unnatural reproductive possibilities (like cloning) whose ultimate consequences for children may not be healthy.

The automatic community of interest that is assumed to exist between parent and child under natural forms of reproduction may not exist for the new ones. Some have argued that we can presume the consent of a yet-to-be-born child to be free of birth defects or of mental retardation. But can we presume the consent of a child to be a clone, or to be born the biological offspring of two women, or to be born with a nonhuman gene? Cloning in particular raises the prospect that the reproductive decision will suit the interests and convenience of the parent rather than the child, and in this case, the state has an obligation to intervene to protect the child.

Can technology be controlled?

Even if we decide that technology should be controlled, we face the problem of whether it can be. Indeed, one of the greatest obstacles to thinking about a regulatory scheme for human biotechnology is the widespread belief that technological advance cannot be restrained, and that all such efforts are self-defeating and doomed to failure. This is asserted gleefully by enthusiasts of particular technologies and by those who hope to profit from them, and pessimistically by those who would like to slow down the development of potentially harmful technologies. In the latter camp, there is widespread de-

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featism on the question of whether politics can shape the future.

This attitude has become particularly strong in recent years because of globalization and our experience with information technology. No sovereign nation, it is said, can regulate or ban any technological innovation, because the research and development will simply move to another jurisdiction. American efforts to control data encryption, for example, or French efforts to enforce a French-language policy on French web sites, have simply hobbled technological development in these countries as developers moved their operations to more favorable regulatory climates. The only way to control the spread of technology is to have international agreements on technology-restricting rules, which are extraordinarily difficult to negotiate and even harder to enforce. In the absence of such international agreements, any nation that chooses to place limits on internal development will simply give other nations a leg up.

A belief in the inevitability of technological advance is mistaken, though it could become a self-fulfilling prophecy if accepted by too many people. It is simply not the case that the speed and scope of technological development cannot be controlled. There are many dangerous or ethically controversial technologies that have been subject to effective political control, including nuclear weapons and nuclear power, ballistic missiles, biological and chemical warfare agents, replacement human body parts, and neuropharmacological drugs. The international community has regulated human experimentation effectively for many years. More recently, the proliferation of genetically modified organisms (GMOs) in the food chain has been stopped dead in its tracks in Europe, with American farmers walking away from transgenic crops that they had only recently embraced. One can argue about the rightness of this decision, but it proves that the march of biotechnology is not an unstoppable juggernaut.

Skeptics will argue that none of these efforts to control technology has been successful in the end. For example, despite the huge diplomatic effort that the West and especially the United States has put into nuclear nonproliferation, India and Pakistan nonetheless became the sixth and seventh pow-

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ers openly to test nuclear devices in the 1990s. While nuclear power for energy generation was slowed down after Three Mile Island and Chernobyl, it is now back on the table due to rising fossil fuel costs and concerns over global warming. Ballistic-missile proliferation and the development of weapons of mass destruction continue in places like Iraq and North Korea, and there is a large underground market in drugs, spare body parts, plutonium, and virtually any other illicit commodity one cares to name.

All of this is true enough: No regulatory regime is ever fully leak-proof, and if one selects a sufficiently long time frame, most technologies end up getting developed eventually. But this misses the point of social regulation. No law is ever fully enforceable. Every country makes murder a crime and attaches severe penalties to homicide, and yet murders nonetheless occur. The fact that they do has never been a reason for giving up on the law or on attempts to enforce it.

In the case of nuclear weapons, vigorous nonproliferation efforts on the part of the international community were in fact very successful in slowing down the spread of nuclear weapons, and keeping them out of the hands of countries that might at different points in their histories have been tempted to use them. At the dawn of the nuclear era in the late 1940s, experts routinely predicted that dozens of countries would possess nuclear weapons in a few years; the fact that only a handful have developed them, and that none have been detonated in conflict by the end of the twentieth century, is a remarkable achievement.

Admittedly, nuclear weapons are easier to control than biotechnology. This is true for two reasons. First, since nuclear weapons development is expensive and requires large, visible institutions, private development is very unlikely. Second, the technology is so obviously dangerous that there was a rapid worldwide consensus on the need to control it. Biotechnology research by contrast, can be carried out in smaller, less lavishly funded labs, and there is no similar consensus on its risks.

On the other hand, biotechnology does not pose high enforcement hurdles the way nuclear weapons do. A single bomb in the hands of a terrorist group or rogue state like Iraq will

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significantly threaten world security. By contrast, an Iraq that can clone Saddam Hussein does not pose much of a threat, unappetizing as that prospect may be. The purpose of a law banning human cloning in the United States would not be undermined if some other countries permitted it, or if Americans traveled abroad to have themselves cloned in such jurisdictions.

Some argue that regulation cannot work in a globalized world unless it is international in scope. But to use this argument to build a case against national-level regulation is to put the cart before the horse. Regulation never starts at an international level. Nations have to develop rules for their own societies before they can even begin to think about creating an international regulatory system. This is particularly true in the case of a politically, economically, and culturally dominant country like the United States. Other countries around the world will pay a great deal of attention to what the United States does in its domestic law. If an international consensus on the regulation of certain biotechnologies is ever to take shape, it is unlikely to come about in the absence of American action at the domestic level.

Biotechnology regulation today

Before we discuss how human biotechnology should be regulated in the future, we must understand how it is regulated today, and how the current system came into existence. The elements of the existing regulatory structure that are most relevant to future human biotechnology developments are the rules concerning human experimentation and drug approval.

Rules regarding human experimentation evolved in tandem with regulation of the drug industry in the United States, and were driven forward in each instance by the revelation of scandal or atrocity. In 1937, 107 deaths resulted from the untested commercial release of the Sulfanilamide Elixir, which was later found to contain the poison di-ethylene glycol. This scandal led very quickly to passage of the Food, Drug, and Cosmetic Act of 1938, which still remains the statutory basis for the Food and Drug Administration's regulatory authority over new foods and drugs. The Thalidomide scandal of the late 1950s and early 1960s led to passage of the Kefauver

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Drug Amendments Act of 1962, which tightened up the rules governing the "informed consent" of a participant in drug trials. Thalidomide, which had been approved for use in Britain, led to horrifying birth defects in the children of women who had taken it while pregnant. Its approval had been held up by the FDA at the clinical trial stage, which nonetheless led to birth defects among the children of mothers participating in the trials.

Human subjects have been threatened not just by new drugs but by scientific experimentation more broadly. The United States developed an extensive set of rules protecting human subjects in scientific experiments largely because of the role played by the National Institutes of Health (and its parent, the U.S. Public Health Service) in funding biomedical research in the postwar period. Again, regulation was driven by scandal and tragedy. In its early years, the NIH set up a peer-review system for evaluating research proposals, but tended to defer to the judgment of the scientific community in deciding upon the acceptable risks to human research subjects. This system proved inadequate with the revelation of the Jewish Chronic Disease Hospital scandal (in which chronically ill and feeble patients were injected with live cancer cells), the Willowbrook scandal (in which mentally retarded children were infected with hepatitis), and the Tuskegee Syphilis scandal (in which 400 poor black men diagnosed with syphilis were put under observation but not told of their condition and in many cases not treated for it when medications became available). These incidents led in 1974 to new federal regulations protecting human research subjects, and to the National Research Act, which created the National Commission for the Protection of Subjects of Biomedical and Behavioral Research. These new laws laid the basis for the current system of Institutional Review Boards (IRBs) that now are required for federally funded research. Even now, the adequacy of these protections has been criticized. The National Bioethics Advisory Commission issued a report in 2001 urging new federal legislation to create a single, strengthened National Office for Human Research Oversight.

Advances in biotechnology have created gaping holes in the existing regime for the regulation of human biomedicine, which

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legislatures and administrative agencies around the world have been racing to fill. It is not clear, for example, whether the rules for human experimentation apply to embryos outside the womb. The nature of the players and the flow of money within the biomedical and pharmaceutical communities has also changed, with important implications for any future regulatory system.

One thing is reasonably clear: The time when governments could deal with biotech questions by appointing national commissions that brought scientists together with learned theologians, historians, and bioethicists is rapidly drawing to a close. These commissions played a very useful role in thinking through the moral and social implications of biomedical research. But it is time to move from thinking to acting, from recommending to legislating. We need institutions with real enforcement powers.

Embryo research is only the beginning of a series of new capabilities for which societies must decide on rules and regulatory institutions. Others that will arise sooner or later include:

Preimplantation diagnosis and screening. This group of technologies, by which multiple embryos are screened genetically for birth defects and other characteristics, is the beginning point for "designer babies." This technology will arrive much sooner than human germ-line engineering. Indeed, such screening has already been performed for children of parents susceptible to certain genetic diseases. In the future, do we want to permit parents to screen and selectively implant embryos on the basis of sex and intelligence, of hair, eye, or skin color, or sexual orientation, once these characteristics can be identified genetically?

Germ-line engineering. If and when human germ-line engineering arrives, it will raise the same issues as preimplantation diagnosis and screening but in a more extreme form. Preimplantation diagnosis and screening is limited by the fact that there will always be only a small number of embryos from which to choose, based on the genes of the two parents. Germ-line engineering will expand possibilities to include virtually any other genetically governed trait, provided it can be identified successfully, including traits that come from other species.

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The creation of chimeras using human genes. Dr. Geoffrey Bourne, former director of the Emory University Primate Center, once stated that "it would be very important scientifically to try to produce an ape-human cross." Other researchers have suggested using women as "hosts" for the embryos of chimpanzees or gorillas. One biotech company, Advanced Cell Technology, reported that it had successfully transferred human DNA into a cow's egg and allowed it to grow into a blastocyst before destroying it. Scientists have been deterred from doing research in this area for fear of bad publicity, but in the United States such work is not illegal. Will we permit the creation of hybrid creatures using human genes?

New Psychotropic Drugs. In the United States, the FDA regulates therapeutic drugs while the Drug Enforcement Agency and the states regulate illegal narcotics like heroin, cocaine, and marijuana. Societies will have to make decisions on the legality and extent of permissible use of future generations of neuropharmacological agents. In the case of prospective drugs that improve memory or other cognitive skills, they will have to decide on the desirability of enhancement uses, and on how these drugs are to be regulated.

A line in the sand?

Regulation is essentially the act of creating lines to separate legal from proscribed activities, authorized by a statute that defines the area in which regulators can exercise some degree of judgment. With the exception of some diehard libertarians, most people reading the above list of future possibilities in biotechnology will probably want to see such lines drawn.

Some practices should be banned outright, and one of them is reproductive cloning (that is, cloning with the intent of producing a child). The reasons for such a ban are both moral and practical, and go far beyond the National Bioethics Advisory Commission's concern that human cloning cannot now be done safely. The moral reasons have to do with the fact that cloning is a highly unnatural form of reproduction that will establish equally unnatural relationships between parents and children. A cloned child will have a very asymmetrical relationship with his or her parents. He or she will be both child

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and twin of the parent from whom his or her genes come, but will not be related to the other parent in any way. The unrelated parent will be expected to nurture a younger version of his or her spouse. How will that parent look upon the clone when he or she reaches sexual maturity? While it is possible to come up with sympathetic scenarios where cloning might be justified (e.g., a holocaust survivor whose family would otherwise die out), these do not constitute a sufficiently strong societal interest to justify a practice that on the whole would be harmful.

Beyond these considerations inherent to cloning itself, there are a number of practical concerns. Cloning is the opening wedge for a series of new technologies that will ultimately lead to "designer babies." If we get used to cloning in the near term, it will be much harder to oppose germ-line engineering for enhancement purposes in the future. It is important to lay down at an early point a political marker that will demonstrate that the development of these technologies is not inevitable, and that societies can exercise some measure of control over the pace and scope of technological advance. There is no strong constituency in favor of cloning in any country, and considerable international consensus already exists in opposition to the procedure. Cloning therefore represents an important strategic opportunity to demonstrate the possibility of political control over biotechnology.

But while a broad ban is appropriate in this case, it will not be a good model for the control of future technologies. Preimplantation diagnosis and screening, for example, has begun to be used today to ensure that children are born free of genetic diseases. The same technology can be used for less laudable purposes such as sex selection. What we need to do in this case is not ban the procedure, but regulate it, drawing lines to distinguish between legitimate and illegitimate uses.

One obvious way of drawing lines is to distinguish between therapy and enhancement, directing research toward the former while putting restrictions on the latter. The original purpose of medicine is, after all, to heal the sick, not to turn healthy people into gods. We don't want star athletes to be hobbled by bad knees or torn ligaments, but we also don't want them to compete on the basis of who has taken the most steroids.

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This general principle would allow us to use biotechnologies to cure genetic diseases like Huntington's chorea or cystic fibrosis but not to make our children more intelligent or taller.

The distinction between therapy and enhancement has been attacked on the grounds that there is no way to distinguish between the two in theory, and therefore no way of discriminating in practice. There is a long intellectual tradition, represented most powerfully in recent years by the French postmodernist thinker Michel Foucault, that maintains that pathology and disease are socially constructed phenomena in which deviation from some presumed norm is stigmatized. Homosexuality, to take one example, was long considered unnatural and was classified as a psychiatric disorder until the latter part of the twentieth century. Something similar can be said of dwarfism: Human heights are distributed normally, and it is not clear at what point in the distribution one becomes a "dwarf." If it is legitimate to give growth hormone to a child who is in the bottom 0.5 percentile for height, why can't it be prescribed for someone who is in the fifth percentile, or for that matter in the fiftieth?

While it is the case that certain conditions do not lend themselves to neat distinctions between pathological and normal, it is also true that there is such a thing as health. As Leon Kass has argued, there is a natural functioning to an organism that has been determined by the requirements of the species' evolutionary history, and that is not simply an arbitrary social construction. It often strikes me that the only people who can argue that there is no difference in principle between disease and health are those who have never been sick. If you have a virus or fracture your leg, you know perfectly well that something is wrong.

And even in the cases where the borderline between sickness and health, therapy and enhancement, is murkier, regulatory agencies routinely make these distinctions in practice. Take the case of Ritalin. The underlying "disease" that Ritalin is supposed to treat, Attention-Deficit/Hyperactivity Disorder (ADHD), is most likely not a disease at all but simply the label that we give to people who are in the tail end of a normal distribution of behavior related to focus and attention. This is in fact a classic case of the social construction of

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pathology: ADHD was not even in the medical lexicon a couple of generations ago. There is, correspondingly, no neat line between what one might label the therapeutic and enhancement uses of Ritalin. At one end of the distribution, there are children who almost anyone would say are so hyperactive that normal functioning is impossible for them. At the other end of the distribution are children who have no trouble concentrating or interacting, for whom taking Ritalin might be an enjoyable experience that would give them a "high" just like any other amphetamine. But they would be taking the drug for enhancement rather than for therapeutic reasons, and therefore most people would want to prevent them from doing so. What makes Ritalin controversial is those children in the middle, who meet only some of the diagnostic criteria specified in the DSM for the disease but are nonetheless given the drug by their family physician.

In other words, if there was ever a case where the distinction between pathology and disease in diagnosis, and therapy and enhancement in treatment, is ambiguous, it is ADHD and Ritalin. And yet, regulatory agencies *make and enforce this distinction all the time*. The U.S. Drug Enforcement Agency classifies Ritalin as a Schedule II pharmaceutical that can only be taken for therapeutic purposes with a doctor's prescription; it clamps down on Ritalin's recreational (that is to say, enhancement) use as an amphetamine. The fact that the boundary between therapy and enhancement is unclear does not make the distinction meaningless.

Institutions of the future

Deciding where precisely we should draw lines concerning technologies that have not yet come into being is not a fruitful exercise at this point. Many of these decisions will have to be made on a trial-and-error basis when the time comes. It is less important at this point to make up a definitive list of restrictions than to think about general principles that should govern the development and use of biotechnology, and to begin designing institutions that will enable us to make critical decisions in the future.

If we are going to regulate biotechnology, we need to think through what agencies we want to make and enforce the rules.

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One possibility is to leave regulatory authority with existing institutions like the Food and Drug Administration, the National Institutes of Health, or consultative groups like the Recombinant DNA Advisory Committee. It is prudent to be conservative in the creation of new regulatory institutions and additional layers of bureaucracy. On the other hand, there are a number of reasons for thinking that we need new institutions to deal with the challenges of the coming biotech revolution. To rely on existing agencies would be like trying to use the Interstate Commerce Commission, which was responsible for regulating trucks, to oversee civil aviation when that industry came into being, rather than creating a separate Federal Aviation Administration.

An initial reason why existing institutions are probably not appropriate for regulating future human biotechnology is their narrow mandate. Human biotechnology differs substantially from agricultural biotechnology insofar as it raises a host of ethical questions related to human dignity and human rights that are not at issue for genetically modified organisms. While people object to genetically engineered crops on ethical grounds, the most vociferous complaints relate to their possible negative consequences for human health and to their environmental impact. These are precisely the issues that existing regulatory institutions like the FDA, EPA, and USDA are designed to handle. These agencies can be criticized for using the wrong standards or for not being sufficiently cautious, but they are not operating outside their regulatory mandate when they take on genetically modified foods.

Let us suppose that Congress legislatively distinguishes between therapeutic and enhancement uses of preimplantation diagnosis and screening. The FDA is not set up to make politically sensitive decisions concerning the point at which selection for characteristics like intelligence or height cease to be therapeutic and become enhancing, or whether such selection can be considered therapeutic at all. The only grounds on which the FDA can prohibit a procedure are effectiveness and safety. But there will be many safe and effective procedures in the coming biotechnology revolution that will nonetheless require regulatory scrutiny. The limits of the FDA's mandate are already evident: It has asserted a right to regulate human

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cloning on the legally questionable grounds that a cloned child constitutes a medical "product" over which it has authority.

One can always try to amend and expand the FDA's charter, but past experience shows that it is difficult to change the organizational culture of agencies with a long history. Not only will the agency resist taking on new duties, but a shifting mandate will likely mean it will do its old job less well. This implies the need to create a new agency to oversee the approval of new medicines, procedures, and technologies for human health. In addition to having a broader mandate, this new authority will need different staffing. It will have to include not just the doctors and scientists who staff the FDA and oversee clinical trials for new drugs, but also those who are prepared to make judgments about the technology's social and ethical implications.

A second reason why existing institutions are probably not sufficient to regulate future biotechnologies relates to the changes that have taken place in the research community and the biotech and pharmaceutical industries over the past generation. There was a period up through the early 1990s when most biomedical research in the United States was funded by the National Institutes of Health or other federal agencies. This meant that the NIH could regulate that research through its own internal rule-making authority, as in the case of rules concerning human experimentation. Government regulators could work closely with committees of scientific insiders like the Recombinant DNA Advisory Committee, and could be reasonably sure that no one in the United States was doing dangerous or ethically questionable research.

None of this holds true any longer. While the federal government remains the largest source of research funding, there is a huge amount of private investment money available to sponsor work in new biotechnologies. Indeed, the massive government-funded Human Genome Project was upstaged by Craig Venter's privately held Celera Genomics in the race to map the human genome. The first embryonic stem cell lines were cultivated by Dr. James Thompson at the University of Wisconsin using nongovernment funding in order to comply with the 1994 rules on federally funded research that would harm embryos. Many of the participants at a workshop held on the

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twenty-fifth anniversary of the Asilomar conference on rDNA concluded that while the Recombinant DNA Advisory Committee (RAC) had served an important function in its day, it could no longer monitor or police the present-day biotech industry. The committee has no formal enforcement powers, and can bring to bear only the weight of opinion within the elite scientific community. The nature of that community has changed over time as well: There are today many fewer "pure" researchers without ties to the biotech industry or commercial interests in certain technologies.

This means that any new regulatory agency must not only have a mandate to regulate biotechnology on grounds broader than efficacy and safety but must also have statutory authority over all research and development, and not just research that is federally funded. Such an agency, the Human Fertilisation and Embryology Authority, has already been created in Britain for this purpose. Unification of regulatory powers into a single new agency will end the practice of complying with federal funding restrictions by finding private sponsors, and will bring more transparency to the biotech sector.

What is the likelihood of the United States putting into place a regulatory system of the kind just outlined? There will be formidable political obstacles to creating new institutions. The biotech industry is strongly opposed to regulation (if anything, it would like to see FDA rules loosened), as is the community of research scientists. Most would prefer regulation to take place within their own disciplines, outside the scope of formal law. They are joined in this by advocacy groups representing patients, the elderly, and others with an interest in promoting cures for various diseases. Together, these groups form a very powerful political coalition.

But for the sake of its own long-term self-interest, the biotech industry should consider promoting formal regulation. Consider what happened to agricultural biotechnology. At the beginning of the 1990s, Monsanto, a leading innovator in agricultural biotechnology, considered asking the first Bush administration for stronger formal regulatory rules, including labeling requirements, for its genetically engineered products. A change of leadership scuttled this initiative, however, on the grounds that there was no scientific evidence of health

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risks, and the firm introduced a series of new GMOs that were quickly adopted by American farmers. What the company failed to anticipate was the political backlash that would arise in Europe against GMOs and the strict labeling requirements that the European Union imposed in 1997 for genetically modified food imported into Europe.

Monsanto and other American firms railed at the Europeans for being unscientific and protectionist, but Europe had sufficient market power to impose its rules on American exporters. American farmers, without a means of separating GM from non-GM foods, found themselves closed out of important export markets. They responded by planting fewer GM crops after 1997 and by charging that they had been mislead by the biotech industry. In retrospect, Monsanto executives realized that they had made a serious mistake in not working earlier to establish an acceptable regulatory environment that would assure consumers of the safety of their products, even if this did not appear to be scientifically necessary.

Until now, the history of pharmaceutical regulation has been driven by horror stories like Sulfanilamide Elixir and Thalidomide. It may be the case that regulations concerning human cloning will have to await the birth of a horribly deformed child who is the product of an unsuccessful cloning attempt. The biotech industry needs to consider whether it is better to anticipate such problems now and work toward formulating a system that serves its interests by assuring people of the safety and ethical nature of its products, or to wait until there is a huge public outcry following an outrageous accident or horrifying experiment.

The meaning of freedom

Ultimately, the technologies developed by these companies, as well as by researchers in government and academia, may lead us into a posthuman future in which we have the capacity, slowly but surely, to alter the essence of human nature. Many embrace this power under the banner of human freedom. They want to maximize the freedom of parents to choose the kind of children they have, the freedom of scientists to pursue research, and the freedom of entrepreneurs to make use of the new technologies to create wealth.

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But this kind of freedom will be different from all other freedoms that people have previously enjoyed. Political freedom has heretofore meant the freedom to pursue those ends that our natures had established for us. Those ends are not rigidly determined; human nature is very plastic, and we have an enormous range of choices conformable with that nature. But it is not infinitely malleable, and the elements that remain constant—particularly our species-typical gamut of emotional responses—constitute a safe harbor that allows us to connect, potentially, with all other human beings.

It may be that we are somehow destined to take up this new kind of freedom, or that the next stage of evolution is one in which, as some have suggested, we will deliberately take charge of our own biological makeup rather than leaving it to the blind forces of natural selection. But if we do, we should do it with our eyes open. Many assume that the posthuman world will look pretty much like our own—free, equal, prosperous, caring, compassionate—only with better health care, longer lives, and perhaps higher levels of intelligence than today.

But the posthuman world could be one that is far more hierarchical and competitive than the one that currently exists, and full of social conflict as a result. It could be one in which any notion of shared humanity is lost, because we have mixed human genes with those of so many other species that we no longer have a clear idea of what a human being is. It could be one in which the average person is living well into his or her second century, sitting in a nursing home hoping for an unattainable death. Or it could be the kind of soft tyranny envisioned in *Brave New World*, in which everyone is healthy and happy but has forgotten the meaning of hope, fear, or struggle.

We do not have to accept any of these future worlds under a false banner of liberty, be it that of unlimited reproductive rights or of unfettered scientific inquiry. We do not have to regard ourselves as slaves to inevitable technological progress when that progress does not serve human ends. True freedom means the freedom of political communities to protect the values they hold most dear, and it is that freedom that we need to exercise with regard to the biotechnology revolution today.

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Biodemocracy in America

ADAM WOLFSON

RECENT breakthroughs in biotechnology have led to all kinds of speculation about America's future in the twenty-first century, the "biotech century." The discussion has been lively and entertaining, even informative at times, but the fact is that predicting the future is a fool's game. The collapse of communism in 1989 caught us as unaware as the terrorist assault on America in 2001. Nor does our track record improve when the relevant variables are well known and quantifiable. A few months before the 2000 election, several prominent political scientists, using state-of-the-art modeling techniques, predicted that Al Gore would defeat George W. Bush by a landslide. If we lack the ability to forecast events only a few months off, surely it would be ludicrous to attempt to divine how as-yet-unknown discoveries

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in such complex fields as biochemistry and genomics will affect our society.

That biotechnology's advance will affect our politics in unforeseen ways is already apparent. It is a sign of things to come that when Bush stepped before the television cameras on August 9 for his first presidential address to the American people, it was not to discuss scrapping the ABM Treaty for missile defense, or the country's tense relations with China, or reform of Social Security, or his tax cut—all of which had been prominently debated during the 2000 election. Instead, it was to explain his decision to allow federal funding for limited research on embryonic stem cells—cells that no one knew how to isolate in a lab until as recently as three years ago and that had gone virtually unremarked upon during the presidential election just nine months earlier. Yet the controversy surrounding these cells had by mid summer reached such a feverish pitch that Bush felt compelled to address the issue in a nationally televised address.

Alexis de Tocqueville knew something about the hazards of predicting the future. As he explained in the introduction to *Democracy in America*, he "wished to consider the whole future" of democracy, and he boldly claimed to have seen further into that future than any of his contemporaries. It was not an idle boast, and even today, over 170 years later, his prescience is remarkable. Somehow a man of the early nineteenth century managed to know us better than we know ourselves. However, Tocqueville was not above miscalling a few big ones. He thought that the problem of slavery would end in a race war and the extermination in the South of either the black or white races. What he could not have possibly foreseen was that an exceptional statesman, Abraham Lincoln, would emerge, and that Lincoln would be followed by many others, black and white, who would dedicate themselves to making multiracial democracy work.

But predicting the exact course of events was never in fact what Tocqueville set out to do in *Democracy in America*. As he explained, in the very chapter in which he failed to see the direction of race relations in the United States:

> It is difficult enough for the human mind to trace some sort of great circle around the future, but within that circle chance plays

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> a part that can never be grasped. In any vision of the future, chance always forms a blind spot which the mind's eye can never penetrate.

Tocqueville's aim was to draw the "great circle" of America's future—that is, to define the possibilities and limits of American democracy. Prophesizing, Nostradamus-like, what might occur within that circle was no part of his business, for here fortune alone rules.

In considering America's future in relation to the biotechnology breakthroughs that have already arrived, and to those that are still to come, we should follow Tocqueville's example. We should worry less about this or that invention and focus instead on the great circle of our future. The challenge, for all of its complexity, can be simply stated: Biotechnology holds out tremendous promise for curing disease but also tempts us with the conquest of human nature in the form of a new eugenics. The question is, what general ideas and opinions in our culture might prevent us from drawing a line between the promise and the peril of biotechnology?

The three waves of medicine

Before tackling this question, a few things should be said about immediate and near-at-hand developments in biotechnology. In surveying these developments, I will depend on Nicholas Wade's recent book, *Life Script: How the Human Genome Discoveries Will Transform Medicine and Enhance Your Health*. Wade is a highly reliable guide. A former writer for *Nature* and *Science* magazines, two preeminent science journals, he is currently a science reporter for the *New York Times*, where he writes on cutting-edge developments in biotechnology.

In Wade's view, the new genomic technologies will "develop in three overlapping waves of innovation which can be called conventional, germline, and life-extending." The conventional therapies will include powerful diagnostic tools known as "gene chips" that will be able to scan a person's genome and detect its vulnerability to various diseases. Meanwhile, by making use of the recently decoded human genome, scientists will soon develop powerful, protein-based wonder drugs. These new diagnostic tests and drugs will mark the dawn of what

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Wade calls "individualized medicine." Patients will be treated based on their particular genetic makeup, with drugs matched to individual genotypes. Also on the immediate horizon is what Wade calls "regenerative medicine." Instead of merely helping people to live longer with disease, medical science will harness the power of stem cells to grow into any number of replacement parts and organs. When a patient gets liver disease, for example, he will be supplied with a newly grown liver. Such advances in science will, Wade concludes, lead to the fulfillment of conventional medicine's "ultimate goal": good health to the end of one's days, which will add up to, on average, 120 years.

The second wave, Wade speculates, will involve germ-line manipulation of the human genome. In germ-line therapy, new genes are inserted directly into the fertilized egg; the resulting genetic changes are permanent, passed on from one generation to the next. Initially, germ-line therapy might be used to repair clear-cut genetic defects, and few people would object to that use of the technology. But, at least in theory, the technique could also be used for enhancement purposes, such as increasing height and boosting IQ or tinkering with the emotional and behavioral makeup of humans. Already, scientists have reportedly increased intelligence in mice by means of genetic manipulation.

Wade's third wave of medical innovations involves a radical increase in the "natural" life span of the human species. Already, scientists have extended the life span of fruit flies, roundworms, and mice. In the case of the roundworm, life span was quadrupled. As Wade points out, if the same were accomplished in humans, people who now live to the ripe old age of 80 years could reach 320 years.

If modern medicine's march ended with Wade's first wave, the social effects would arguably be minimal. The extension of the life span to 120 years would only complete a trend underway since the beginning of the last century, when average life expectancy was in the mid forties. It is not clear that a jump from 80 to 120 would be any more dramatic than was the jump from 40 to 80. One might ask whether Social Security would remain solvent with people living so long, but that is already a concern. One could raise other, more difficult ques-

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tions about a nation in which the average age has greatly increased. Would the social ties of affinity and affection between generations remain strong if the "young" must wait until their mid seventies to hold high office or to reach the top of the corporate ladder? Would a nation of senior, senior citizens be willing to risk blood and treasure to defend itself? Would it still launch missions to the moon or send men aloft into space? Would a nation of 90-year-olds still have the capacity to consider questions anew? Or are spiritedness and a sense of wonder qualities mainly of the young? These are serious but speculative matters, which are unlikely to lead people to object to medicine's advance. Only antiscience zealots and a few exceptional stoics would say no to a long and healthy life for themselves and their children. (Of course, objections of a different sort have been raised about the morality of the *means* employed in the course of this "first wave," means that may involve experimenting on human embryos.)

In contrast, the second and third waves will indeed raise profound and unprecedented questions. Edward O. Wilson, the highly regarded Harvard sociobiologist, has predicted that within the next several decades, an era of "volitional evolution" will commence, in which it will be possible not only to increase intelligence and other such qualities but also to transform the basic emotional drives of *Homo sapiens*. One does not have to be religious to question whether man has the wisdom to gamble with human nature in this manner. Wilson himself asks why our species would "give up the defining core of its existence, built by millions of years of biological trial and error." Not only do we lack the knowledge to tinker with human nature, but there is something immoral and tyrannical about one generation of human beings experimenting upon and changing the essence of humanity for all succeeding generations.

There are other, darker possibilities, human cloning among them. Despite the fact that animal clones suffer from high rates of deformity, and despite the many ethical objections to human cloning, several fertility experts in America and abroad have announced their intention to clone a human being. There is as of this writing no legal barrier standing in their way. The creation of human chimeras is another horrifying possibility.

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Several years ago, a biotechnology company claimed to have created an embryonic cell that was part cow, part human, the result of a fusion of a human cell nucleus and a cow egg. The embryo was allowed to grow and divide five times, though there was apparently no intention to transfer it to a uterus. This experiment was not the work of some ghoulish Dr. Kevorkian but of well-respected scientists at the established biotechnology company Advanced Cell Technology in Massachusetts. As the *New York Times* reported at the time, "A perplexing feature of the hybrid embryo would be that it would start mostly bovine, then become mostly yet not entirely human." Perplexing indeed, and yet perfectly legal under current law.

Today's debate

Given the indeterminacy of events, it seems pointless to second guess Wade and other experts in the field. Whether it will indeed become possible to enhance IQs or to quadruple the human life span is anyone's guess, though it is worth noting that these are the predictions of the scientists themselves, not the writers of science fiction. The mind boggles at what life in America would be like once the country is engulfed by Wade's second and third waves, by a freewheeling eugenics of cloning and enhancement. Yet what is within reach of analysis is the question of how our culture will respond to such breakthroughs—that is, whether it will view the new discoveries with skepticism, if not repugnance, or whether it will embrace every new possibility. For here, the area of Tocqueville's great circle, if you will, we need merely examine what is being said now about biotechnology to reach some conclusions about what will be said in the future. Of course, there is no way of knowing which arguments will prevail, for one never knows from what corner an Abraham Lincoln will emerge, transcending and transforming the political debate. But we can make some reasonable surmises nonetheless.

Today's culture wars over biotechnology concern two issues, whether to pass legislation that would criminalize reproductive as well as therapeutic cloning and whether stem cell research on embryos should receive the financial backing of the federal government. In the case of cloning, the House of

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Representatives has passed by a vote of 265 to 162 the Weldon bill, which would criminalize cloning of human embryos for any purpose, reproductive or therapeutic. What kind of anti-cloning law will eventually, if ever, be passed, now depends upon the Senate, where the Democrats hold a slim majority. As for federal support for research on stem cells, Bush settled on a compromise that allows the federal government to fund existing stem cell lines but not the creation of any additional ones.

The cloning and stem cell debates produced an unusual political alliance between religious conservatives and the environmental Left, both of whom favored either government regulation of, or outright bans on, the new techniques. They are opposed by liberal Democrats and the biotechnology industry. This political debate is very important and bears close watching in the years ahead. But deeper cultural trends are also at work, to which one might apply Tocqueville's label of "mores"—that is, "the habits of the heart," "the different notions possessed by men, the various opinions current among them, and the sum of ideas that shape mental habits." Of these habits, notions, opinions, and ideas, three stand out: nonjudgmentalism, scientism, and egalitarianism. Each of these, which I will discuss in turn, tends to favor the unchecked advance of the biotechnology revolution.

Nonjudgmentalism

Whether it gains sustenance from relativism, postmodernism, or libertarianism, nonjudgmentalism has become one of the distinguishing marks of our culture. In most matters, Americans think it is wrong to judge others or to attempt to constrain their choices. The public's nonjudgmentalism was on display most recently during the Clinton scandals. According to opinion polls, the majority of Americans thought that Clinton was wrong to have had a sexual affair with a young intern and then lie about it, but they also believed that it was his private concern and none of their business. What happens when such nonjudgmentalism meets biotechnology? Will cloning and genetic enhancement be viewed as the private affairs of individuals?

There is little polling data available on what people think

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about future biotechnology developments, with the possible exception of cloning. On the question of human or reproductive cloning, Americans, at least for now, tend to be quite judgmental. Generally, upwards of 90 percent of the public opposes the cloning of human beings, though this opposition slackens somewhat among the young. A 1997 poll sponsored by *Time* and CNN found that 64 percent of 18-to-29-year-olds favored therapeutic cloning—that is, cloning for replacement tissues and parts—compared to only 32 percent of those over 65 years.

Yet it is not enough to look at polling data. If opinion polls were the decisive measure of public sentiment, why has Congress thus far failed to ban reproductive cloning? Given the lack of legal action, one might question the depth of Americans' opposition. As many pundits have noted, when the first baby clone is born, with its cute face splashed on the cover of every magazine, opposition is likely to melt away. In other words, which laws get passed and which laws do not is at least as important a measure of public sentiment as opinion polls.

The popular culture can also tell us something about public opinion on these issues. Consider a recent Hollywood film about cloning, starring Arnold Schwarzenegger. The movie, entitled *Sixth Day*, takes place in the near future: Human cloning has been made illegal after some disastrous experiments, but corporate America wants the ban overturned, a ban that is strongly supported by a motley crew of religious zealots. Arnold plays a typical American who, though not religious, has qualms about cloning. When his daughter's pet dog dies, he will not pay for a clone-replacement because he finds the idea simply too weird. His anticloning prejudice seems confirmed when an evil corporate CEO mistakenly clones him, unleashing all sorts of mayhem. But this is no update of the Frankenstein story, warning of the hubris of science, for Arnold comes to appreciate that his clone is a person too, with human feelings and a soul. And even though his clone has sex with his wife, Arnold befriends him anyway. It's only a matter of loving himself, and what could be more natural and pleasing to democratic taste than self-love? By movie's end, Arnold, now enlightened, clones his daughter's dead pooch, and everyone, he and his clone, live happily ever after.

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More sophisticated versions of nonjudgmentalism spring from the ideologies of postmodernism and libertarianism. Just as biotechnology has led religious conservatives to work with environmental Greens, so too it has led conservative libertarians to join hands with the postmodern Left.

It is, of course, no secret that over the last several decades, postmodern ideas have become increasingly prevalent, most notably in academic circles. From a postmodern perspective, developments in biotechnology might seem both to confirm that "human nature" is entirely plastic and to open the door to new, experimental modes of being. Harvard law professor Laurence Tribe's writings on these issues illustrate postmodernism's influence on the biotechnology debate. In the early 1970s, when America's first great cloning debate occurred (somewhat prematurely, as it turned out), Tribe opposed the cloning of humans on the traditional liberal grounds that it amounted to using humans as means and not ends. Yet 25 years later, after the arrival of Dolly the cloned sheep, Tribe reversed his position. Under the influence of postmodernism, he argued that it cannot be known whether cloning is degrading of human nature, which he now, in good postmodern fashion, puts in quotation marks. Furthermore, he attacked those who opposed cloning as "essentialists" and claimed that a ban on human cloning risks, in his words, "cutting [society] off from vital experimentation and risks sterilizing a significant part of its capacity to grow."

Those influenced by postmodernism do not view cloning as something to be merely tolerated or as the price society must pay for the medical benefits that this technique might yield. Instead, they see cloning as a positive good, a way of breaking down old habits of thought and overturning what they view as harmful prejudices. To them, cloning is the ultimate "transgression."

A more buttoned-down version of nonjudgmentalism can be found on the Right among those who call themselves libertarians. They argue with respect to biotechnology, as they do with most other social questions—whether it is gambling, pornography, drugs, or divorce—that it is none of the government's business what consenting adults do with their time, money, and bodies. A ban on cloning is the "road to serfdom" all over

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again. In their view, we should trust individuals to know what is best for themselves. Conveniently, libertarians overlook the fact that eugenics involves third parties who have not consented to the proposed genetic engineering, whether it is the clone-to-be, the "designer baby," or the new race of "posthumans."

How far nonjudgmentalism might eventually reach can be glimpsed from the *New York Times* article that I mentioned earlier. The reporter acknowledged that the American public would be greatly troubled by the possibility of mixing man with animal, but he added the key qualifier, "at least at first." For as it happens, many scientists and bioethicists already believe that this is a rather outdated distinction. Said one expert: "'Biologically a lot of this research is showing us similarities and the upshot in a hundred years may be that the lines between humans and nonhumans will be viewed as a little bit grayer.'" A slogan for the next century might be: "Down with speciesism!"

Scientism

Nonjudgmentalism finds an ally in what I will call "scientism," which may ultimately pose a more fundamental, and perhaps less familiar, challenge. Today, many believe that scientists should be the judge of their own cause, free of the meddlesome control of moralists, philosophers, theologians, and politicians. Examples of this mindset are not hard to find. In an article on Bush's stem cell deliberations, *New York Times* columnist Frank Rich complained that "political science [is taking] precedence over biological science." Similarly, after Bush's stem cell decision, Representative Richard Gephardt objected that "Americans know this is not the decision that the science community needs to go full force."

Note that word "force," for it is a favorite of those, whether liberal or conservative, who are under the sway of scientism. Earlier in the year, for example, former Speaker of the House Newt Gingrich made a fetish of force when he urged his Republican colleagues to replace their conservative principles with a simple belief in, as he put it, "technology as a force of change." A variation on this theme holds that scientific "progress" is inevitable, and so the attempt to stop it is futile.

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There is a certain irony in this notion of science as unstoppable force. Modern science, whose overriding goal is the conquest of the blind forces of nature, is now itself considered a blind force beyond human control.

As long as medical science remained dedicated to relief of suffering, no democratic oversight was required. For relief of suffering is, almost by definition, *the* democratic goal. Yet today, medical science is on the verge of finding a new polestar—one other than health—by which to organize its activities and to guide its progress. This is the crucial thesis of Nicholas Wade's book. In his words:

> Though [today's genomic] revolution is being conducted in the name of medicine, it will not necessarily stop at its implied goal, the attainment of perfect health. The power to reshape the human clay has no clear limits. How far should we go in enhancing qualities other than health, such as physique or intelligence?

It is a question that haunts Wade. "Increasing life expectancy lies fully within the agreed goal of contemporary medicine," he states, while "increasing the life span is a different and far more ambitious goal." Once "the ultimate goal of conventional medicine," namely health, is achieved, "radical departures" like germ-line engineering are in the bidding, he writes. "The true dangers of genome engineering," he warns, "lie in the question of what changes should be permitted, if any, other than those directly related to health."

In writing that the "implied," "agreed," and "ultimate goal" of medicine is health, Wade is trading on an understanding of the modern scientific project formulated four hundred years ago by Francis Bacon. On the one hand, Bacon wished to liberate the pursuit of knowledge from the shackles of religion and the stultifying influence of ancient philosophy. He foresaw the kind of science we have today, one that produces all sorts of powerful inventions and cures. But on the other hand, in order to prevent the misuse of this liberated science, Bacon proposed that it be given one exclusive and binding directive: "the relief of man's estate." In *The Great Instauration* he starkly warned:

> Lastly, I would address one general admonition to all; that they consider what are the true ends of knowledge, and that they seek

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> it ... but for the benefit and use of life; and that they perfect and govern it in charity.

As several scholars have noted, Bacon's scientist was to be, in a sense, a secular priest. He would devote himself to the conquest of nature, but only for the altruistic purpose of ministering to the sick. He would be full of curiosity about the natural world and ambition to subdue it, but he would also be full of charity for the lot of man.

In his 1966 book *The Phenomenon of Life*, the philosopher Hans Jonas scrutinized charity's role in directing and giving purpose to modern science, and argued that Bacon's attempt to graft charity onto science was bound to fail eventually. The problem is that the scientist, strictly in his capacity as a scientist, cannot justify such a goal, for the intellectual and moral sources of charity are independent of the scientist's discipline. As Jonas formulated the quandary:

> The need for charity or benevolence in the use of theory stems from the fact that power can be for evil as well as for good. Now, charity is not itself among the fruits of theory in the modern sense. As a qualifying condition of its use—which use theory itself does not specify, let alone assure—it must spring from a source transcendent to the knowledge that the theory supplies.

From Bacon's time to our own, medical science has by and large limited itself to the charitable aim of making imperfect men comfortable. But now, it is clear, many scientists have set their sights on the new goal of perfecting imperfect men, not to mention such oddities as cloning. And in today's secularized culture, it is increasingly difficult to insist, as Bacon once did, that scientists should be governed by a religious or ethical norm like charity. Such a norm is dismissed as the residue of a faded religious faith, a faith that must not be forced on nonbelievers, or a humanism that has been discredited. Meanwhile, others, influenced by the nonjudgmentalism of the day, think it none of their business to dictate goals and values to scientists. So what if cloning or genetic enhancement are largely unrelated to the relief of suffering; why, it is demanded, should this remain science's goal, especially today when science is capable of doing so much more? E. O. Wilson considers this "the ultimate question: To what end, or ends, if any in par-

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ticular, should human genius direct itself?" Bacon's answer evidently no longer suffices.

Equality

Nonjudgmentalism and scientism would prepare the way for a laissez-faire eugenics. People would choose what genetic enhancements they please and can pay for, and scientists would create as they like. But there is another widely held notion in America—egalitarianism—which pulls in a different direction. It too will make resistance to the biotechnology revolution difficult, but the outcome will be instead of a laissez-faire eugenics some form of government-subsidized and regulated eugenics.

In his 1997 book *Remaking Eden,* Princeton molecular biologist Lee Silver speculates that in the future two genetic classes will emerge, the "GenRich," a hereditary class of genetic aristocrats, who take advantage of the new science of eugenics, and the "Naturals," who cannot afford to enhance their offspring. Whatever Silver's competency in science, his political analysis is probably off the mark. As Francis Fukuyama has pointed out, if genetic enhancement were to become possible, democratic publics would take to the streets with knives and guns before allowing Silver's scenario to come to pass. The lower and middle classes would insist that their children be provided with the same eugenic enhancements available to the children of the rich. In time, the U.S. government would subsidize eugenic programs, not to create an overclass but to preserve equality, to elevate everyone's natural endowments.

Indeed, some of today's most influential liberal thinkers have defended eugenics on these grounds. That they should do so is especially interesting, if not surprising, since liberals have for the better part of the last 50 years attacked genetic explanations of human behavior as discredited holdovers of Nazism and fascism. At the same time, however, liberals have also denied the possibility of "equality of opportunity." Individuals, they point out, each begin life from a particular socioeconomic class and with different natural abilities. This realism, as it were, about the limits of equality in a free society ultimately softened liberal objections to eugenics.

In John Rawls's classic *A Theory of Justice*, published in

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1971, long before the biotechnology revolution, a curious passage appeared. Rawls states that he will not consider the question of eugenics but then notes briefly that it is

> in the interest of each to have greater natural assets. This enables him to pursue a preferred plan of life. In the original position, then, the parties want to insure for their descendants the best genetic endowment (assuming their own to be fixed). The pursuit of reasonable policies in this regard is something that earlier generations owe to later ones, this being a question that arises between generations. Thus over time a society is to take steps at least to preserve the general level of natural abilities and to prevent the diffusion of serious defects.

Rawls concludes by stating, "I shall not pursue this thought further," but thirty years later, with the potential of genetic engineering more evident, his disciple Ronald Dworkin is not so reticent. In his 2000 book, *Sovereign Virtue: The Theory and Practice of Equality*, he vigorously and at length defends genetic engineering on the grounds of equality. The equality principle requires, in his view, that we do all in our power—including eugenics—to make each life a successful one. The step from government redistribution of income in the name of equality to government-sponsored eugenics in the name of equality is apparently a small one.

At the end of his book, Nicholas Wade captures the strange marriage that might come about between the democratic passion for equality and the science of eugenics. "The sequencing of the human genome makes it possible to envisage for the first time the creation of a genetically more just society, one in which the most fundamental kind of wealth—the genes that confer health and fitness—would for the first time be accessible to all."

Looking toward the future

Nonjudgmentalism, scientism, and equality—these three notions form the backdrop against which the biotechnology revolution is unfolding. Together, they make up, as Tocqueville would say, the "great circle" of our future. This does not mean that it is futile to resist biotechnology's advance. I do not wish to spread despair. Congress will in all likelihood enact a ban against human cloning, and President Bush has

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made clear that the federal government will not unconditionally endorse experimentation on human embryos. The president has also appointed the bioethicist Leon Kass to head a national commission with the broad mandate of guiding policy makers and the public through the moral minefield of the biotechnology revolution. These are important counter-developments to the trends I have canvassed.

Then there is the role that chance plays. The attack on the Pentagon and the World Trade Center could transform our culture in deep and lasting ways. Nonjudgmentalism may not seem quite so laudable in this other brave new world we have now unfortunately entered—a world of terror on our very own shores. And bioterrorism in the form of anthrax and smallpox reminds us, more vividly perhaps than any theoretical argument, that the life sciences can also be used for evil and death. Though hardly worth the price, we may regain our moral compass and rediscover what has always been most admirable about the American experiment: Not so much our science and technology, as wonderful and inspiring as these are, but our democratic way of life, our example to the world of a free people governing itself.

If nothing else, the events of September 11 remind us not to become overly distracted by the biotechnology revolution. It raises many profound questions but poses no immediate crisis. Criticism of biotechnology's progression must not be allowed to develop into something else, an indictment of America in its entirety. For whatever the country's excesses, and there are no doubt many, America remains the last, best hope of good-willed people everywhere.

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The meaning of life—in the laboratory

LEON R. KASS

FOR much of the past year, the United States was absorbed in a difficult moral debate about whether the federal government should fund research on human embryonic stem cells, cells derived from early embryos produced by in vitro *fertilization in assisted-reproduction clinics. Proponents touted the life-saving and disease-curing promise of these pluripotent cells, which may someday enable doctors to replace the damaged tissues of spinal cord injury, juvenile diabetes, or Parkinson's disease, among others. Opponents objected to the necessary exploitation and destruction of the human embryos from which the stem cells are extracted. In August, in his first major televised address to the nation, President Bush announced his decision. Reaffirming the principle that nascent life not be destroyed for the sake of research, yet eager to explore the possible therapeutic benefits of these cells, he chose to permit federal funds to be used for research only on already existing embryonic stem cell lines. At the same*

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time, he announced the creation of a President's Council on Bioethics to monitor stem cell research and to consider all of the medical and ethical ramifications of biomedical innovation. I have been appointed to chair this council.

Neither I nor The Public Interest *are new to these matters. In the 1970s, I published two essays in these pages on laboratory-assisted reproduction and manipulation of embryos ("Making Babies—the New Biology and the 'Old' Morality," Winter 1972; and "'Making Babies' Revisited," Winter, 1979), the second based on testimony I had given before an NIH Ethics Advisory Board on the question of federal funding of human embryo research. In view of ongoing public interest in these matters and my role in the future deliberations, the editors have decided to reprint a version of the latter essay, which appeared in my 1985 book,* Toward a More Natural Science: Biology and Human Affairs *(The Free Press). Readers will see immediately that the questions we face today are not identical to those of 20 years ago. No one then was talking about stem cells or the prospects for regenerative medicine. Moreover, this essay does not entirely represent my current thinking on these matters, and the policy option of limited federal funding adopted by President Bush is not even considered here. Nevertheless, I believe that this essay may still be useful to our current deliberations, less for the particular positions it takes, more for the approach it recommends and the questions it insists on considering. What does it mean to treat nascent human life as raw material to be exploited as a mere natural resource? What are the likely future technical possibilities and moral problems that present decisions are willy-nilly creating? What moral boundaries should researchers observe, whether they work with federal or with private funds? What are the goals of, and what are the proper limits to, the project for the mastery of human nature?*

The current stem cell debate, like so many other arguments about biomedical technology, neglects these larger questions. In addition, both the proponents and the opponents of embryo research employ the same, rather limited, "vitalist" moral principle: Stem cell research will save lives (of children and adults); obtaining the stem cells destroys lives (of embryonic human beings). Our society needs to realize there is more at stake in

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the biological revolution than just saving life or avoiding death. We must also strive to protect and preserve human dignity and the ideas and practices that keep us human. This essay, though dated, remains an invitation to remember these human and moral concerns, concerns that are themselves manifestations of what is humanly most worth preserving. It is my intention to keep these larger and profoundly important matters central to the work of the President's Council on Bioethics.

—Leon Kass, October 2001

People will not look forward to posterity who never look backward to their ancestors.

—Edmund Burke

What's a nice embryo like you doing in a place like this?

—Traditional

THE readers of Aldous Huxley's novel, like the inhabitants of the society it depicts, enter into the Brave New World through "a squat gray building ... the Central London Hatchery and Conditioning Centre," beginning, in fact, in the Fertilizing Room. There, three hundred fertilizers sit bent over their instruments, inspecting eggs, immersing them "in warm bouillon containing free-swimming spermatozoa," and incubating the successfully fertilized eggs until they are ripe for bottling (or Bokanovskification). Here, most emphatically, life begins with fertilization—in the laboratory. Life in the laboratory is the gateway to the Brave New World.

We stand today fully on the threshold of that gateway. How far and how fast we travel through this entrance is not a matter of chance or necessity but rather a matter of human decision—our human decision. Indeed, it seems to be reserved to the people of this country and this century, by our conduct and example, to decide also this important question.

Should we allow or encourage the initiation and growth of human life in the laboratory? This question, in one form or another, has been an issue for public policy for nearly a de-

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cade, even before the birth of the first test-tube baby in the summer of 1978. Back in 1975, after prolonged deliberations, the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research issued its report and recommendations for research on the human fetus. The Secretary of Health, Education, and Welfare (HEW) then published regulations regarding research, development, and related activities involving fetuses, pregnant women, and *in vitro* fertilization. These provided that no federal monies should be used for *in vitro* fertilization of human eggs until a special Ethics Advisory Board reviewed the ethical issues and offered advice about whether government should support any such proposed research. Perhaps for the first time in the modern era of biomedical research, public deliberation and debate about ethical matters led to an effective moratorium on federal support for experimentation—in this case, for research on human *in vitro* fertilization.

A few years later, the whole matter once again became the subject of intense policy debate, when an Ethics Advisory Board was established to consider whether the United States government should finance research on human life in the laboratory. The question had been placed on the policy table by a research proposal submitted to the National Institute of Child Health and Human Development by Dr. Pierre Soupart of Vanderbilt University. Dr. Soupart requested $465,000 for a study to define in part the genetic risk involved in obtaining early human embryos by tissue-culture methods. He proposed to fertilize about 450 human ova, obtained from donors undergoing gynecological surgery (i.e., not from women whom the research could be expected to help), with donor sperm, to observe their development for five to six days, and to examine them microscopically for chromosomal and other abnormalities before discarding them. In addition, he proposed to study whether such laboratory-grown embryos could be frozen and stored without introducing abnormalities, for it was thought that temporary cold storage of human embryos might improve the success rate in the subsequent embryo-transfer procedure used to produce a child. Though Dr. Soupart did not then propose to perform embryo transfers for women seeking to become pregnant, his research was intended to serve that goal:

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He hoped to reassure us that baby-making with the help of *in vitro* fertilization was safe, and he sought to perfect the techniques of laboratory growth of human embryos introduced by Drs. Robert Edwards and Patrick Steptoe in England.

Dr. Soupart's application was approved for funding by the National Institutes of Health in October 1977, but because of the administrative regulations, it could not be funded without review by an Ethics Advisory Board. The then secretary of HEW, Joseph Califano, constituted such a board, and charged it not only with a decision on the Soupart proposal, but with an inquiry into all the scientific, ethical, and legal issues involved, urging it "to provide recommendations on broad principles to guide the Department in future decision-making." After six months of public hearings all over the United States and another six months of private deliberation, the board issued its report in 1979, recommending that research funding be permitted for some *in vitro* experimentation—including the sort proposed by Dr. Soupart. But no secretary of health and human services—then or thereafter—has been willing to act on that recommendation. In fact, Dr. Soupart died in 1981 without having received a clear answer from the government. Thus, we still have no definite policy regarding our question: Should we allow or encourage the initiation and growth of human life in the laboratory?

The meaning of the question

How should one think about such ethical questions, here and in general? There are many possible ways, and it is not altogether clear which way is best. For some people, ethical issues are immediately matters of right and wrong, of purity and sin, of good and evil. For others, the critical terms are benefits and harms, risks and promises, gains and costs. Some will focus on so-called rights of individuals or groups (e.g., a right to life or childbirth); still others will emphasize so-called goods for society and its members, such as the advancement of knowledge and the prevention and cure of disease. My own orientation here is somewhat different. I wish to suggest that before deciding what to do, one should try to understand the implications of doing or not doing. The first task, it seems to me, is not to ask "moral or immoral?" or "right or wrong?"

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but to try to understand fully the meaning and significance of the proposed actions.

This concern with significance leads me to take a broad view of the matter. For we are concerned here not only with some limited research project of the sort proposed by Dr. Soupart, and the narrow issues of safety and informed consent it immediately raises; we are concerned also with a whole range of implications, including many that are tied to foreseeable consequences of this research and its predictable extensions—and touching even our common conception of our own humanity. As most of us are at least tacitly aware, more is at stake than in ordinary biomedical research or in experimenting with human subjects at risk of bodily harm. At stake is the *idea* of the *humanness* of our human life and the meaning of our embodiment, our sexual being, and our relation to ancestors and descendants. In thinking about necessarily particular and immediate decisions, say, for example, regarding Dr. Soupart's research, we must be mindful of the larger picture and must avoid the great danger of trivializing the matter for the sake of rendering it manageable.

The status of extracorporeal life

The meaning of "life in the laboratory" turns in part on the nature and meaning of the human embryo, isolated in the laboratory and separate from the confines of a woman's body. What is the status of a fertilized human egg (i.e., a human zygote) and the embryo that develops from it? How are we to regard its being? How are we to regard it morally (i.e., how are we to behave toward it)? These are, alas, all too familiar questions. At least analogous, if not identical, questions are central to the abortion controversy and are also crucial in considering whether and what sort of experimentation is properly conducted on living but aborted fetuses. Would that it were possible to say that the matter is simple and obvious, and that it has been resolved to everyone's satisfaction!

But the controversy about the morality of abortion continues to rage and divide our nation. Moreover, many who favor or who do not oppose abortion do so despite the fact that they regard the previable fetus as a living human organism, even if less worthy of protection than a woman's desire not to

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give it birth. Almost everyone senses the importance of this matter for the decision about laboratory culture of and experimentation with human embryos. Thus, we are obliged to take up the question of the status of the embryo in our search for the outlines of some common ground on which many of us can stand. To the best of my knowledge, the discussion that follows is not informed by any particular sectarian or religious teaching, though it may perhaps reveal that I am a person not devoid of reverence and the capacity for awe and wonder, said by some to be the core of the religious sentiment.

I begin by noting that the circumstances of laboratory-grown blastocysts (i.e., three-to-six-day-old embryos) and embryos are not identical with those of the analogous cases of (1) living fetuses facing abortion and (2) living aborted fetuses used in research. First, the fetuses whose fates are at issue in abortion are unwanted, usually the result of so-called accidental conception. Here, the embryos are wanted, and deliberately created, despite certain knowledge that many of them will be destroyed or discarded. Moreover, the fate of these embryos is not in conflict with the wishes, interests, or alleged rights of the pregnant women. Second, though the federal guidelines governing fetal research permit studies conducted on the not-at-all viable aborted fetus, such research merely takes advantage of available "products" of abortions not themselves undertaken for the sake of the research. No one has proposed and no one would sanction the deliberate production of live fetuses to be aborted for the sake of research, even very beneficial research.[1] In contrast, we are here considering the deliberate production of embryos for the express purpose of experimentation.

The cases may also differ in other ways. Given the present state of the art, the largest embryo under discussion is the blastocyst, a spherical, relatively undifferentiated mass of cells, barely visible to the naked eye. In appearance, it does not look human; indeed, only the most careful scrutiny by the most experienced scientist might distinguish it from similar blastocysts of other mammals. If the human zygote and blasto-

[1] Though perhaps a justifiable exception would be a universal plague that fatally attacked all fetuses *in utero*. To find a cure for the end of the species may entail deliberately "producing" (and aborting) live fetuses for research.

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cyst are more like the animal zygote and blastocyst than they are like the 12-week-old human fetus (which already has a humanoid appearance, differentiated organs, and electrical activity of the brain), then there would be a much diminished ethical dilemma regarding their deliberate creation and experimental use. Needless to say, there are articulate and passionate defenders of all points of view. Let us try, however, to consider the matter afresh.

First of all, the zygote and early embryonic stages are clearly alive. They metabolize, respire, and respond to changes in the environment; they grow and divide. Second, though not yet organized into distinctive parts or organs, the blastocyst is an organic whole, self-developing, genetically unique and distinct from the egg and sperm whose union marked the beginning of its career as a discrete, unfolding being. While the egg and sperm are alive as cells, something new and alive *in a different sense* comes into being with fertilization. The truth of this is unaffected by the fact that fertilization takes time and is not an instantaneous event. For after fertilization is *complete*, there exists a new individual, with its unique genetic identity, fully potent for the self-initiated development into a mature human being, if circumstances are cooperative. Though there is some sense in which the lives of egg and sperm are continuous with the life of the new organism (or, in human terms, that the parents live on in the child-to-be [or child]), in the decisive sense there is a discontinuity, a new beginning, with fertilization. *After* fertilization, there is continuity of subsequent development, even if the locus of the new living being alters with implantation (or birth). Any honest biologist must be impressed by these facts, and must be inclined, at least on first glance, to the view that a human life begins at fertilization.[2] Even Dr. Robert Edwards had apparently stumbled over this truth, perhaps inadvertently, in his remark about Louise Brown, his first successful test-tube baby: "The last time I saw *her*, *she* was just eight cells in a test-tube. *She* was beau-

[2] The truth of this is not decisively affected by the fact that the early embryo may soon divide and give rise to identical twins or by the fact that scientists may disaggregate and reassemble the cells of the early embryos, even mixing in cells from different embryos in the reaggregation. These unusual and artificial cases do not affect the natural norm, or the truth that *a* human life begins with fertilization—and does so always, if nothing abnormal occurs.

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tiful *then*, and she's still beautiful *now*!"

Granting that a human life begins at fertilization, and comes to be via a continuous process thereafter, surely—one might say—the blastocyst itself can hardly be considered a human being. I myself would agree that a blastocyst is not, in a *full* sense, a human being—or what the current fashion calls, rather arbitrarily and without clear definition, a person. It does not look like a human being nor can it do very much of what human beings do. Yet, at the same time, I must acknowledge that the human blastocyst is (1) human in origin and (2) *potentially* a mature human being, if all goes well. This, too, is beyond dispute; indeed it is precisely because of its peculiarly human potentialities that people propose to study *it* rather than the embryos of other mammals. The human blastocyst, even the human blastocyst *in vitro,* is not humanly nothing; it possesses a power to become what everyone will agree is a human being.

Here it may be objected that the blastocyst *in vitro* has today no such power, because there is now no *in vitro* way to bring the blastocyst to that much later fetal stage in which it might survive on its own. There are no published reports of culture of human embryos past the blastocyst stage (though this has been reported for mice.) The *in vitro* blastocyst, like the 12-week-old aborted fetus, is *in this sense* not viable (i.e., it is at a stage of maturation before the stage of possible independent existence). But if we distinguish, among the *not*-viable embryos, between the *pre*viable and the *not-at-all* viable—on the basis that the former, though not yet viable, is capable of *becoming* or *being made* viable—we note a crucial difference between the blastocyst and the twelve-week-old abortus. Unlike an aborted fetus, the blastocyst is possibly salvageable, and hence potentially viable, *if it is transferred to a woman for implantation*. It is not strictly true that the *in vitro* blastocyst is *necessarily* not viable. Until proven otherwise, by embryo transfer and attempted implantation, we are right to consider the human blastocyst *in vitro* as potentially a human being and, in this respect, not fundamentally different from a blastocyst *in utero*. To put the matter more forcefully, the blastocyst *in vitro* is more viable, in the sense of more sal-

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vageable, than aborted fetuses at most later stages, up to say 20 weeks.

This is not to say that such a blastocyst is therefore endowed with a so-called right to life, that failure to implant it is negligent homicide, or that experimental touchings of such blastocysts constitute assault and battery. (I myself tend to reject such claims, and indeed think that the ethical questions are not best posed in terms of rights.) But the blastocyst is not nothing; it is *at least* potential humanity, and as such it elicits, or ought to elicit, our feelings of awe and respect. In the blastocyst, even in the zygote, we face a mysterious and awesome power, a power governed by an immanent plan that may produce an indisputably and fully human being. It deserves our respect not because it has rights or claims or sentience (which it does not have at this stage), but because of what it is, now and prospectively.

Let us test this provisional conclusion by considering intuitively our response to two possible fates of such zygotes, blastocysts, and early embryos. First, should such an embryo die, will we be inclined to mourn its passing? When a woman we know miscarries, we are sad—largely for *her* loss and disappointment, but perhaps also at the premature death of a life that might have been. But we do not mourn the departed fetus, nor do we seek ritually to dispose of the remains. In this respect, we do not treat even the fetus as fully one of us.

On the other hand, we would, I suppose, recoil even from the thought, let alone the practice—I apologize for forcing it upon the reader—of eating such embryos, should someone discover that they would provide a great delicacy, a "human caviar." The human blastocyst would be protected by our taboo against cannibalism, which insists on the humanness of human flesh and does not permit us to treat even the flesh of the dead as if it were mere meat. *The human embryo is not mere meat; it is not just stuff; it is not a "thing."*[3] Because of

[3] Some people have suggested that the embryo be regarded in the same manner as a vital organ, salvaged from a newly dead corpse, usable for transplantation or research, and that its donation by egg and sperm donors be governed by the Uniform Anatomical Gift Act, which legitimates premortem consent for organ donation upon death. But though this acknowledges that embryos are not "things," it is a mistake to treat embryos as mere organs, thereby overlooking that they are early stages of a complete, whole human being. The Uniform Anatomical Gift

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its origin and because of its capacity, it commands a higher respect.

How much more respect? As much as for a fully developed human being? My own inclination is to say probably not, but who can be certain? Indeed, there might be prudential and reasonable grounds for an affirmative answer, partly because the presumption of ignorance ought to err in the direction of never underestimating the basis for respect of human life (not least, for our own self-respect), partly because so many people feel very strongly that even the blastocyst is protectably human. As a first approximation, I would analogize the early embryo *in vitro* to the early embryo *in utero* (because both are potentially viable and human). On this ground alone, the most sensible policy is to *treat the early embryo as a previable fetus, with constraints imposed on early embryo research at least as great as those on fetal research.*

To some this may seem excessively scrupulous. They will argue for the importance of the absence of distinctive humanoid appearance or the absence of sentience. To be sure, we would feel more restraint in invasive procedures conducted on a five-month-old or even a twelve-week-old living fetus than on a blastocyst. But this added restraint on inflicting suffering on a look-alike, feeling creature in no way denies the propriety of a prior restraint, grounded in respect for individuated, living, potential humanity. Before I would be persuaded to treat early embryos differently from later ones, I would insist on the establishment of a reasonably clear, naturally grounded boundary that would separate "early" and "late," and on the provision of a basis for respecting the "early" less than the "late." This burden must be accepted by proponents of experimentation with human embryos *in vitro* if a decision to permit the creation of embryos for such experimentation is to be treated as ethically responsible.

The treatment of extracorporeal embryos

Where does the above analysis lead in thinking about treatment of human embryos in the laboratory? I indicate, very

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Act does not apply to, nor should it be stretched to cover, donation of gonads, gametes (male sperm or female eggs) or—especially—zygotes and embryos.

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briefly, the lines toward a possible policy, though that is not my major intent.

The *in vitro* fertilized embryo has four possible fates: (1) implantation, in the hope of producing from it a child; (2) death, by active killing or disaggregation, or by a "natural" demise; (3) use in manipulative experimentation—embryological, genetic, etc.; and (4) use in attempts at perpetuation *in vitro*, beyond the blastocyst stage, ultimately, perhaps, to viability. Let us consider each in turn.

On the strength of my analysis of the status of the embryo, and the respect due it, no objection would be raised to implantation. *In vitro* fertilization and embryo transfer to treat infertility, as in the case of Mr. and Mrs. Brown, is perfectly compatible with a respect and reverence for human life, including potential human life. Moreover, no disrespect is intended or practiced by the mere fact that several eggs are removed to increase the chance of success. Were it possible to guarantee successful fertilization and normal growth with a single egg, no more would need to be obtained. Assuming nothing further is done with the unimplanted embryos, there is nothing disrespectful going on. The demise of the unimplanted embryos would be analogous to the loss of numerous embryos wasted in the normal *in vivo* attempts to generate a child. It is estimated that over 50 percent of eggs successfully fertilized during unprotected sexual intercourse fail to implant, or do not remain implanted, in the uterine wall, and are shed soon thereafter, before a diagnosis of pregnancy could be made. Any couple attempting to conceive a child tacitly accepts such embryonic wastage as the perfectly acceptable price to be paid for the birth of a (usually) healthy child. Current procedures to initiate pregnancy with laboratory fertilization thus differ from the natural process in that what would normally be spread over four or five months *in vivo* is compressed into a single effort, using all at once a four or five months' supply of eggs.[4]

Parenthetically, we should note that the natural occurrence of embryo and fetal loss and wastage does not necessarily or

[4] There is a good chance that the problem of surplus embryos may be avoidable, for purely technical reasons. Some researchers believe that the uterine receptivity to the transferred embryo might be reduced during the particular menstrual cycle in which the ova are obtained because of the effects of the hormones given

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automatically justify all deliberate, humanly caused destruction of fetal life. For example, the natural loss of embryos in early pregnancy cannot in itself be a warrant for deliberately aborting them or for invasively experimenting on them *in vitro*, any more than stillbirths could be a justification for newborn infanticide. There are many things that happen naturally that we ought not do deliberately. It is curious how the same people who deny the relevance of nature as a guide for evaluating human interventions into human generation, and who deny that the term "unnatural" carries any ethical weight, will themselves appeal to "nature's way" when it suits their purposes.[5] Still, in this present matter, the closeness to natural procreation—the goal is the same, the embryonic loss is unavoidable and not desired, and the amount of loss is similar—leads me to believe that we do no more intentional or unjustified harm in one case than in the other and practice no disrespect.

But must we allow the unimplanted *in vitro* embryos to die? Why should they not be either transferred for adoption into another infertile woman, or else used for investigative purposes, to seek new knowledge, say about gene action? The first option raises questions about lineage and the nature of parenthood to which I will return. But even on first glance, it would seem likely to raise a large objection from the original couple who were seeking a child of their own, and not the dissemination of their biological children for prenatal adoption.

But what about experimentation on such blastocysts and early embryos? Is that compatible with the respect they de-

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to induce superovulation. They propose that the harvested eggs be frozen and then defrosted one at a time each month for fertilization, culture, and transfer, until pregnancy is achieved. By refusing to fertilize all the eggs at once—not placing all one's eggs in one uterine cycle—there will not be surplus embryos, but at most only surplus eggs. This change in the procedure would make the demise of unimplanted embryos exactly analogous to the "natural" embryonic loss in ordinary reproduction.

[5] The literature on intervention in reproduction is both confused and confusing on the crucial matter of the meaning of "nature" or "the natural" and their significance for the ethical issues. It may be as much a mistake to claim that the natural has no moral force as to suggest that the natural way is best, because natural. Though shallow and slippery thought about nature, and its relation to "good," is a likely source of these confusions, the nature of nature may itself be elusive, making it difficult for even careful thought to capture what is natural.

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serve? This is the hard question. On balance, I would think not. Invasive and manipulative experiments involving such embryos very likely presume that they are things or mere stuff and deny the fact of their possible viability. Certain observational and noninvasive experiments might be different. But on the whole, I would think that the respect for human embryos for which I have argued—I repeat, not their so-called right to life—would lead one to oppose most potentially interesting and useful experimentation. This is a dilemma, but one which cannot be ducked or defined away. Either we accept certain great restrictions on the permissible uses of human embryos or we deliberately decide to override—though I hope not deny—the respect due to the embryos.

I am aware that I have pointed toward a seemingly paradoxical conclusion about the treatment of the unimplanted embryos: Leave them alone, and do not create embryos for experimentation only. To let them die naturally would be the most respectful course, grounded on a reverence, generically, for their potential humanity, and a respect, individually, for their being the seed and offspring of a particular couple, who were themselves seeking only to have a child of their own. An analysis that stressed a right to life, rather than respect, would, of course, lead to different conclusions. Only an analysis of the status of the embryo that denies both its so-called rights or its worthiness of all respect would have no trouble sanctioning its use in investigative research, donation to other couples, commercial transactions, and other activities of these sorts.

I have to this point ignored the fourth and future fate of life in the laboratory, perpetuation in the bottle beyond the blastocyst state, ultimately, perhaps, to viability. As a practical matter, this repugnant Huxleyan prospect probably need not concern us much for the time being. But as a thought experiment, it permits us to test further our intuitions about the meaning of life in the laboratory and to discover thereby the limitations of the previous analysis. For these unimplanted and cultivated embryos raise even more profound difficulties. Bad as it may now be to discard or experiment upon them in these primordial stages, it will be far worse once we learn how to perpetuate them to later stages in their laboratory

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existence—especially when the technology arrives that can bring them to viability *in vitro*. For how long and up to what stage of development will they be considered fit material for experimentation? When ought they to be released from the machinery and admitted into the human fraternity, or, at least, into the premature nursery? The need for a respectable boundary defining protectable human life cannot be overstated. The current boundaries, gerrymandered for the sake of abortion—namely, birth or viability—may now satisfy both women's liberation and the United States Supreme Court and may someday satisfy even a future pope, but they will not survive the coming of more sophisticated technologies for growing life in the laboratory.[6]

But what if perpetuation in the laboratory were to be sought not for the sake of experimentation but in order to produce a healthy living child—say, one with all the benefits of a scientifically based gestational nourishment and care? Would such treatment of a laboratory-grown embryo be compatible with the respect it is owed? If we consider only what is owed to its vitality and potential humanity *as an individuated human being*, then the laboratory growth of an embryo into a viable full-term baby (i.e., ectogenesis) would be perfectly compatible with the requisite respect. (Indeed, for these reasons one would guess that the right-to-life people, who object even to the destruction of blastocysts, would find infinitely preferable any form of their preservation and perpetuation to term, in the bottle if necessary.) But the practice of ectogenesis would be incompatible with the *further* respect owed to our humanity on account of *the bounds of lineage, kinship, and descent.* To be human means not only to have human form and powers; it means also to have a human context and to be humanly

[6] In *Roe v. Wade*, the Supreme Court ruled that state action regarding abortion was unconstitutional in the first trimester of pregnancy, permissible after the first trimester in order to promote the health of the mother, and permissible in order to protect "potential life" only at viability (about 24 weeks), prior to which time the state's interest in fetal life was deemed not "compelling." This rather careless and arbitrary placement of boundaries is already something of an embarrassment, thanks to growing knowledge about fetal development and, especially, sophisticated procedures for performing surgery on the intrauterine fetus—even in the second trimester. Also, because viability is, in part, a matter of available outside support, technical advances—such as an artificial placenta or even less spectacular improvements in sustaining premature infants—will reveal that viability is a movable boundary and that development is a continuum without clear natural discontinuities.

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connected. The navel, no less than speech and the upright posture, is a mark of our being. It is for these sorts of reasons that we find the Brave New World's Hatcheries dehumanizing.

Assisted by these reflections on the futuristic prospect of ectogenesis, we return for a closer look at the present practices of implantation. For just as the laboratory is not a fitting home for nascent human life, so, too, some human homes are more appropriate than others.

Lineage and parenthood, embodiment and gender

Many people rejoiced at the birth of Louise Brown. Some were pleased by the technical accomplishment, many were pleased that she was born apparently in good health. But most of us shared the joy of her parents, who after a long, frustrating, and fruitless period, at last had the pleasure and blessing of a child of their own. (Curiously, the perspective of the child was largely ignored. It will thus be easier to come at the matter of lineage by looking at it first from the side of the progenitors rather than the descendants.) The desire to have a child of one's own is acknowledged to be a powerful and deep-seated human desire—some have called it instinctive—and the satisfaction of this desire, by the relief of infertility, is said to be one major goal of continuing work with *in vitro* fertilization and embryo transfer. That this is a worthy goal few, if any, would deny.

Yet let us explore what is meant by "to have a child of one's own." First, what is meant by "to have"? Is the crucial meaning that of gestating and bearing? Or is it to have as a possession? Or is it to nourish and to rear, the child being the embodiment of one's activity as teacher and guide? Or is it rather to provide someone who descends and comes after, someone who will replace oneself in the family line or preserve the family tree by new sproutings and branchings, someone who will renew and perpetuate the vitality and aspiration of human life?

More significantly, what is meant by "one's own"? What sense of one's own is important? A scientist might define one's own in terms of carrying one's own genes. Though in some sense correct, this cannot be humanly decisive. For Mr.

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Brown or for most of us, it would not be a matter of indifference if the sperm used to fertilize the egg were provided by an identical twin brother—whose genes would be, of course, the same as his. Rather, the humanly crucial sense of one's own, the sense that leads most people to choose their own, rather than to adopt, is captured in such phrases as "my seed," "flesh of my flesh," "sprung from my loins." More accurately, since one's own is not the own of one but of two, the desire to have a child of one's own is a *couple's* desire to embody, out of the conjugal union of their separate bodies, a child who is flesh of their separate flesh made one. This archaic language may sound quaint, but I would argue that this is precisely what is being celebrated by most people who rejoice at the birth of Louise Brown, whether they would articulate it this way or not. Mr. and Mrs. Brown, by the birth of their daughter, embody themselves in another, and thus fulfill this aspect of their separate sexual natures and of their married life together. They also acquire descendants and a new branch of their joined family tree. Correlatively, the child, Louise, is given solid and unambiguous roots from which she has sprung and by which she will be nourished.

If this were to be the only use made of embryo transfer, and if providing *in this sense* "a child of one's own" were indeed the sole reason for the clinical use of the techniques, there could be no objection. Here indeed is the natural and proper home for the human embryo. Here indeed is the affirmation of transmission and the importance of lineage and connectedness. Yet there will almost certainly be—in fact, there already are—other uses, involving third parties, to satisfy the desire to have a child of one's own in different senses of "to have" and "one's own." I am not merely speculating about future possibilities. With the technology to effect human *in vitro* fertilization and embryo transfer comes the immediate possibility of egg donation (egg from donor, sperm from husband), embryo donation (egg and sperm from outside of the marriage), and foster pregnancy (host surrogate for gestation). Clearly, the need for extramarital embryo transfers is real and probably large, probably eventually even greater than that for intramarital ones.

Nearly everyone agrees that these circumstances are mor-

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ally and perhaps psychologically more complicated than the intramarital ones. The reasons touch the central core of gestation and generation. Here the meaning of one's own is no longer so unambiguous; neither is the meaning of motherhood and the status of pregnancy. Indeed, one of the clearest meanings of having life in the laboratory is the rupture of the normally necessary umbilical connection between mother and child. This technical capacity to disrupt the connection has in fact been welcomed, curiously, for contradictory reasons. On the one hand, it is argued that embryo donation, or prenatal adoption, would be superior to present adoption, precisely because the woman would have the experience of pregnancy and the child would be born of the adopting mother, rendering the maternal tie that much closer. On the other hand, the mother-child bond rooted in pregnancy and delivery is held to be of little consequence by those who would endorse the use of surrogate gestational mothers, say for a woman whose infertility is due to uterine disease rather than ovarian disease or oviduct obstruction. But in both cases, the new techniques will serve not to ensure and preserve lineage, but rather to confound and complicate it. The principle truly at work in bringing life into the laboratory is not to provide married couples with a child of their own—or to provide a home of their own for children—but to provide a child to anyone who wants one, by whatever possible or convenient means.

So what?, it will be said. First of all, we already practice and encourage adoption. Second, we have permitted artificial insemination—though we have, after roughly 50 years of this practice, yet to resolve questions of legitimacy. Third, what with the high rate of divorce and remarriage, identification of mother, father, and child are already complicated. Fourth, there is a growing rate of illegitimacy and husbandless parentages. Fifth, the use of surrogate mothers for foster pregnancy is becoming widespread with the aid of artificial insemination. Finally, our age in its enlightenment is no longer so certain about the virtues of family, lineage, and heterosexuality, or even about the taboos against adultery and incest. Against this background, it will be asked, Why all the fuss about some little embryos that stray from their nest?

It is not an easy question to answer. Yet consider. We

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practice adoption because there are abandoned children who need good homes. We do not, and would not, encourage people deliberately to generate children for others to adopt, partly because we wish to avoid baby markets, partly because we think it unfair to deliberately deprive the child of his natural ties. Recent years have seen a rise in our concern with roots, against the rootless and increasingly homogeneous background of contemporary American life. Adopted children, in particular, are pressing for information regarding their biological parents, and some states now require this information to be made available (on that typically modern rationale of freedom of information, rather than because of the profound importance of lineage for self-identity). Even the importance of children's ties to grandparents is being reasserted, as courts are granting visitation privileges to grandparents, over the objections of divorced-and-remarried former daughters- or sons-in-law. The practice of artificial insemination has yet to be evaluated, the secrecy in which it is practiced being an apparent concession to the dangers of publicity.[7] Indeed, most physicians who practice artificial insemination (donor) routinely mix in some semen from the husband, to preserve some doubt about paternity—again, a concession to the importance of lineage and legitimacy. Finally, what about the changing mores of marriage, divorce, single-parent families, and sexual behavior? Do we applaud these changes? Do we want to contribute further to this confusion of thought, identity, and practice?[8]

Our society is dangerously close to losing its grip on the meaning of some fundamental aspects of human existence. In reviewing the problem of the disrespect shown to embryonic

[7] There are today numerous suits pending, throughout the United States, because of artificial insemination with donor semen (AID). Following divorce, the ex-husbands are refusing child support for AID children, claiming, minimally, no paternity, or maximally, that the child was the fruit of an adulterous "union." In fact, a few states still treat AID as adultery. The importance of anonymity is revealed in the following bizarre case: A woman wanted to have a child, but abhorred the thought of marriage or of sexual relations with men. She learned a do-it-yourself technique of artificial insemination and persuaded a male acquaintance to donate his semen. Now some 10 years after this virgin birth, the case has gone to court. The semen donor is suing for visitation privileges, to see his son.

[8] To those who point out that the bond between sexuality and procreation has already been permanently cleaved by the pill, and that this is therefore an idle worry in the case of

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and fetal life in our efforts to master them, we noted a tendency—we shall meet it again shortly—to reduce certain aspects of human being to mere body, a tendency opposed most decisively in the nearly universal prohibition of cannibalism. Here, in noticing our growing casualness about marriage, legitimacy, kinship, and lineage, we discover how our individualistic and willful projects lead us to ignore the truths defended by the equally widespread prohibition of incest (especially parent-child incest). Properly understood, the largely universal taboo against incest, and also the prohibitions against adultery, defend the integrity of marriage, kinship, and especially the lines of origin and descent. These time-honored restraints implicitly teach that clarity about who your parents are, clarity in the lines of generation, clarity about who is whose, are the indispensable foundations of a sound family life, itself the sound foundation of civilized community. Clarity about your origins is crucial for self-identity, itself important for self-respect. It would be, in my view, deplorable public policy to erode further such fundamental beliefs, values, institutions, and practices. This means, concretely, no encouragement of embryo adoption or especially of surrogate pregnancy. While it would perhaps be foolish to try to proscribe or outlaw such practices, it would not be wise to support or foster them.

The existence of human life in the laboratory, outside the confines of the generating bodies from which it sprang, also challenges the meaning of our embodiment. People like Mr. and Mrs. Brown, who seek a child derived from their flesh, celebrate in so doing their self-identity with their own bodies and acknowledge the meaning of the living human body by following its pointings to its own perpetuation. For them, their bodies contain the seeds of their own self-transcendence and enable them to strike a blow for the enduring goodness of the life in which they participate. Affirming the gift of their embodied life, they show their gratitude by passing on that gift to their children. Only the body's failure to serve the transmission of embodiment has led them—and only temporarily—

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in vitro fertilization, it must be said that the pill—like earlier forms of contraception—provides only sex without babies. Babies without sex is the truly unprecedented and radical departure.

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to generate beyond its confines. But life in the laboratory also allows other people—including those who would donate or sell sperm, eggs, or embryos; or those who would bear another's child in surrogate pregnancy; or even those who will prefer to have their children rationally manufactured entirely in the laboratory—to declare themselves independent of their bodies, in this ultimate liberation. For them the body is a mere tool, ideally an instrument of the conscious will, the sole repository of human dignity. Yet this blind assertion of will against our bodily nature—in contradiction of the meaning of the human generation it seeks to control—can only lead to self-degradation and dehumanization.

In this connection, the case of surrogate wombs bears a further comment. While expressing no objection to the practice of foster pregnancy itself, some people object that it will be done for pay, largely because of their fear that poor women will be exploited by such a practice. But if there were nothing wrong with foster pregnancy, what would be wrong with making a living at it? Clearly, this objection harbors a tacit understanding that to bear another's child for pay is in some sense a degradation of oneself—in the same sense that prostitution is a degradation primarily because it entails the loveless surrender of one's body to serve another's lust, and only derivatively because the prostitute is paid. It is to deny the meaning and worth of one's body to treat it as a mere incubator, divested of its human meaning. It is also to deny the meaning of the bonds among sexuality, love, and procreation. The buying and selling of human flesh and the dehumanized uses of the human body ought not to be encouraged. To be sure, the practice of womb donation could be engaged in for love rather than for money, as it apparently has been in some cases, including the original case in Michigan. A woman could bear her sister's child out of sisterly love. But to the degree that she escapes in this way from the degradation and difficulties of the sale of human flesh and bodily services and the treating of the body as undignified stuff, once again she approaches instead the difficulties of incest and near incest.

To this point we have been examining the meaning of the presence of human life in the laboratory, but we have neglected the meaning of putting it there in the first place, that

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is, the meaning of extracorporeal fertilization *as such*. What is the significance of divorcing human generation from human sexuality, precisely for the meaning of our bodily natures as male and female, as both gendered and engendering? To be male or to be female derives its deepest meaning only in relation to the other, and therewith in the gender-mated prospects for generation through union. Our separated embodiment prevents us as lovers from attaining that complete fusion of souls that we as lovers seek; but the complementarity of gender provides a bodily means for transcending separateness through the children born of sexual union. As the navel is our bodily mark of lineage, pointing back to our ancestors, so our genitalia are the bodily mark of linkage, pointing ultimately forward to our descendants. Can these aspects of our being be fulfilled through the rationalized techniques of laboratory sexuality and fertilization? Does not the scientist-partner produce a triangle that somehow subverts the meaning of "two"? Even in the best of cases, do we not pay in coin of our humanity for electing to generate sexlessly?

Future prospects

Before proceeding to look at some questions of public policy, we need first to consider the likely future developments regarding human life in the laboratory. In my view, we must consider these prospects in reaching our decision about present policy. For, clearly, part of the meaning of what we are now doing consists in the things it will enable us sooner or later to do hereafter.

What can we expect for life in the laboratory, as an outgrowth of present studies? To be sure, prediction is difficult. One can never know with certainty what will happen, much less how soon. Yet uncertainty is not the same as simple ignorance. Some things, indeed, seem likely. They seem likely because (1) they are thought necessary or desirable, at least by some researchers and their sponsors; (2) they are probably biologically possible and technically feasible; and (3) they will be difficult to prevent or control (especially if no one anticipates their development or sees a need to worry about them). Wise policy makers will want to face up to reasonable projections of future accomplishments, consider whether they are

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cause for social concern, and see whether or not the principles now enunciated and the practices now established are adequate to deal with any such concerns. I project at least the following:

1. The growth of human embryos in the laboratory will be extended beyond the blastocyst stage. Such growth must be deemed desirable under all the arguments advanced for developmental research up to the blastocyst stage; research on gene action, chromosome segregation, cellular and organic differentiation, fetus-environment interaction, implantation, etc., cannot answer all its questions with the blastocyst. Such *in vitro* postblastocyst differentiation has apparently been achieved in the mouse, in culture; the use of other mammals as temporary hosts for human embryos is also a possibility. How far such embryos will eventually be perpetuated is anybody's guess, but full-term ectogenesis cannot be excluded. Neither can the existence of laboratories filled with many living human embryos, growing at various stages of development.

2. Experiments will be undertaken to alter the cellular and genetic composition of these embryos, at first without subsequent transfer to a woman for gestation, perhaps later as a prelude to reproductive efforts. Again, scientific reasons now justifying research like Dr. Soupart's already justify further embryonic manipulations, including formations of hybrids or chimeras (within species and between species); gene, chromosome, and plasmid insertion, excision, or alteration; nuclear transplantation or cloning; etc. The techniques of DNA recombination, coupled with the new skills of handling embryos, make prospects for some precise genetic manipulation much nearer than anyone would have guessed 10 years ago. And embryological and cellular research in mammals is making astounding progress. Not long ago the cover of *Science* featured a picture of a hexaparental mouse, born after reaggregation of an early embryo with cells disaggregated from three separate embryos. (Note: That sober journal called this a "handmade mouse"—literally a *manu-factured* mouse—and went on to say that it was "manufactured by genetic engineering techniques.")

3. Storage and banking of living human embryos (and ova) will be undertaken, perhaps commercially. After all, commercial sperm banks are already well established and prospering.

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I can here do no more than identify a few kinds of questions that must be considered in relation to such possible coming control over human heredity and reproduction: questions about the wisdom required to engage in such practices; questions about the goals and standards that will guide our interventions; questions about changes in the concepts of being human, including embodiment, gender, love, lineage, identity, parenthood, and sexuality; questions about the responsibility of power over future generations; questions about awe, respect, humility; questions about the kind of society we will have if we follow along our present course.[9]

Though I cannot discuss these questions now, I can and must face a serious objection to considering them at all. Most people would agree that the projected possibilities raise far more serious questions than do simple fertilization of a few embryos, their growth *in vitro* to the blastocyst stage, and their subsequent use in experimentation or possible transfer to women for gestation. Why burden present policy with these possibilities? Future abuses, it is often said, do not disqualify present uses (though these same people also often say that "future benefits justify present practices, even questionable ones"). Moreover, there can be no certainty that A will lead to B. This thin-edge-of-the-wedge argument has been open to criticism.

But such criticism misses the point for two reasons. First, critics often misunderstand the wedge argument, which is not primarily an argument of prediction, that A will lead to B, say on the strength of the empirical analysis of precedent and an appraisal of the likely direction of present research. It is primarily an argument about the logic of justification. Do not the principles of justification *now* used to justify the current research proposal already justify *in advance* the further developments? Consider some of these principles:

1. It is desirable to learn as much as possible about the

[9] Some of these questions were addressed, albeit only briefly, in an earlier article ("Making Babies," *The Public Interest*, Number 26, Winter 1972). It has been pointed out to me by an astute colleague that the tone of the present piece is less passionate and more accommodating than the first, a change he regards as an ironic demonstration of the inexorable way in which we get used to, and accept, our technological nightmares. I myself share his concern. I cannot decide whether the decline of my passion is to be welcomed, that is, whether it is due to

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processes of fertilization, growth, implantation, and differentiation of human embryos and about human gene expression and its control.

2. It would be desirable to acquire improved techniques for enhancing conception, for preventing conception and implantation, for the treatment of genetic and chromosomal abnormalities, etc.

3. In the end, only research using *human* embryos can answer these questions and provide these techniques.

4. There should be no censorship or limitation of scientific inquiry or research.

This logic knows no boundary at the blastocyst stage, or, for that matter, at any later stage. For these principles *not* to justify future extensions of current work, some independent additional principles (e.g., a principle limiting such justification to particular stages of development) would have to be found. (Here, the task is to find such a biologically defensible distinction that could be respected as reasonable and not arbitrary, a difficult—perhaps impossible—task, given the continuity of development after fertilization.) Perhaps even more important than any present decision to encourage bringing human life into the laboratory will be the reasons given to support that decision. We will want to know *precisely* what grounds our policy makers will give for endorsing such research, and whether their principles have not already sanctioned future developments. If they do give such wedge-opening justifications, let them do so deliberately, candidly, and intentionally.

A better case to illustrate the wedge logic is the principle offered for the embryo-transfer procedure as treatment for infertility. Will we support the use of *in vitro* fertilization and embryo transfer because it provides a child of one's own, in a strict sense of "one's own," to a married couple? Or will we support the transfer because it is treatment of involuntary infertility, which deserves treatment in or out of marriage, hence endorsing the use of any available technical means that would produce a healthy and normal child, including surro-

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greater understanding bred of more thought and experience, or to greater callousness and the contempt of familiarity bred from too much thought and experience. Adaptiveness is our glory and our curse: As Raskolnikov put it, "Man gets used to everything, the beast!"

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gate wombs, or even ectogenesis?

Second, logic aside, the opponents of the wedge argument do not counsel well. It would be simply foolish to ignore what might come next and to fail to make the best possible assessment of the implications of present action (or inaction). Let me put the matter very bluntly: The decisions we must now make may very well help to determine whether human beings will eventually be produced in laboratories. I say this not to shock—and I do not mean to beg the question of whether that would be desirable or not. I say this to make sure that we and our policy makers face squarely the full import and magnitude of this decision. Once the genies let the babies into the bottle, it may be impossible to get them out again.

The question of federal funding

So much, then, for the meanings of initiating, housing, and manipulating human embryos in the laboratory. We are now better prepared to consider the original practical question: Should we allow or encourage these activities? The foregoing reflections still make me doubt the wisdom of proceeding with these practices, both in research and in their clinical application, notwithstanding that valuable knowledge might be had by continuing the research and identifiable suffering might be alleviated by using it to circumvent infertility. To doubt the wisdom of going ahead makes one at least a fellow traveler of the opponents of such research, but it does not, either logically or practically, require that one join them in trying to prevent it, say by legal prohibition. Not every folly can or should be legislated against. Attempts at prohibition here would seem to be both ineffective and dangerous, ineffective because impossible to enforce, dangerous because the costs of such precedent-setting interference with scientific research might be greater than the harm it prevents. To be sure, we already have legal restrictions on experimentation with human subjects, restrictions that are manifestly not incompatible with the progress of medical science. Neither is it true that science cannot survive if it must take some direction from the law. Nor is it the case that all research, because it is research, is or should be absolutely protected. But it does not seem to me that *in vitro* fertilization and growth of human embryos or

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embryo transfer deserve, at least at present, to be treated as sufficiently dangerous for legislative interference.

But if to doubt the wisdom does not oblige one to seek to outlaw the folly, neither does a decision to permit require a decision to encourage or support. A researcher's freedom to do *in vitro* fertilization, or a woman's right to have a child with laboratory assistance, in no way implies a public (or even a private) obligation to pay for such research or treatment. A right *against* interference is not an entitlement *for* assistance. The question before the Department of Health and Human Services is not whether such research should be permitted or outlawed, but only whether the federal government should fund it. This is the policy question that needs to be discussed.

I propose to discuss it here, and at some length, not because it is itself timely or relatively important—it is neither—but because it is exemplary. Policy questions regarding controversial new biomedical technologies and practices—as well as other morally and politically charged matters on the border between private and public life (e.g., abortion, racial discrimination, developing the artificial heart, or affirmative action)—frequently take the form of arguments over federal support. Social control and direction of new developments is often given not in terms of yes or no, but rather, how much, how fast, or how soon? Thus, much of the present analysis can be generalized and made applicable to other specific developments in the field and to the field as a whole.

The arguments in favor of federal support are well known. First, the research is seen as continuous with, if not quite an ordinary instance of, the biomedical research that the federal government supports handsomely; roughly two-thirds of the money spent on biomedical research in the United States comes from Uncle Sam. Why is this research different from all other research? Its scientific merit has been attested to by the normal peer-review process of NIH. For some, that is a sufficient reason to support it.

Second, there are specific practical fruits expected from the anticipated successes of this new line of research. Besides relief for many cases of infertility, the research promises new birth-control measures based upon improved understanding of the mechanisms of fertilization and implantation, which in

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turn could lead to techniques for blocking these processes. Also, studies on early embryonic development hold forth the promise of learning how to prevent some congenital malformations and certain highly malignant tumors (e.g., hydatidiform mole) that derive from aberrant fetal tissue.

Third, as he who pays the piper calls the tune, federal support would make easy federal regulation and supervision of this research. For the government to abstain, so the argument runs, is to leave the control of research and clinical application in the hands of profit-hungry, adventurous, insensitive, reckless, or power-hungry private physicians, scientists, or drug companies, or, on the other hand, at the mercy of the vindictive, mindless, and superstitious civic groups that will interfere with this research through state and local legislation. Only through federal regulation—which, it is said, can only follow with federal funding—can we have reasonable, enforceable, and uniform guidelines.

Fourth is the chauvinistic argument that the United States should lead the way in this brave new research, especially as it will apparently be going forward in other nations. Indeed, one witness testifying before the Ethics Advisory Board deplored the fact that the first test-tube baby was British and not American, and complained, in effect, that the existing moratorium on federal support has already created what one might call an "*in vitro* fertilization gap." The preeminence of American science and technology, so the argument implies, is the center of our preeminence among the nations, a position that will be jeopardized if we hang back out of fear.

Let me respond to these arguments, in reverse order. Conceding—even embracing—the premise of the importance of American science for American strength and prestige, it is far from clear that failure to support *this* research would jeopardize American science. Certainly the use of embryo transfer to overcome infertility, though a vital matter for the couples involved, is hardly a matter of vital national interest—at least not unless and until the majority of American women are similarly infertile. The demands of international competition, admittedly often a necessary evil, should be invoked only for things that really matter; a missile gap and an embryo-transfer gap are chasms apart. In areas not crucial to our own survival,

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there will be many things we should allow other nations to develop, if that is their wish, without feeling obliged to join them. Moreover, one should not rush into potential folly to avoid being the last to commit it.

The argument about governmental regulation has much to recommend it. But it fails to consider that there are other safeguards against recklessness, at least in the clinical applications, known to the high-minded as the canons of medical ethics and to the cynical as liability for malpractice. Also, federal regulations attached to federal funding will not in any case regulate research done with private monies, say by the drug companies. Moreover, there are enough concerned practitioners of these new arts who would have a compelling interest in regulating their own practice, if only to escape the wrath and interference of hostile citizen's groups in response to unsavory goings-on. The available evidence does not convince me that a sensible practice of *in vitro* experimentation requires regulation by the federal government.

In turning to the argument about anticipated technological powers, we face difficult calculations of unpredictable and more-or-less likely costs and benefits, and the all-important questions of priorities in the allocation of scarce resources. Here it seems useful to consider separately the techniques for generating children and the anticipated techniques for birth control or for preventing developmental anomalies and malignancies.

First, accepting that providing a child of their own to infertile couples is a worthy goal—and it is both insensitive and illogical to cite the population problem as an argument for ignoring the problem of infertility—one can nevertheless question its rank relative to other goals of medical research. One can even wonder whether it is indeed a *medical* goal, or a worthy goal for medicine, that is, whether alleviating infertility, especially in this way, is part of the art of healing. Just as abortion for genetic defect is a peculiar innovation in medicine (or in preventive medicine) in which a disease is treated by eliminating the patient (or, if you prefer, a disease is prevented by "preventing" the patient), so laboratory fertilization is a peculiar treatment for oviduct obstruction in that it requires the creation of a new life to "heal" an existing one. All

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this simply emphasizes the uniqueness of the reproductive organs in that their proper function involves other people, and calls attention to the fact that infertility is not a disease, like heart disease or stroke, even though obstruction of a normally patent tube or vessel is the proximate cause of each.

However this may be, there is a more important objection to this approach to the problem. It represents yet another instance of our thoughtless preference for expensive, high-technology, therapy-oriented approaches to disease and dysfunctions. What about spending this money on discovering the causes of infertility? What about the prevention of tubal obstruction? We complain about rising medical costs, but we insist on the most spectacular and the most technological—and thereby often the most costly—remedies.

The truth is that we do know a little about the causes of tubal obstruction, though much less than we should or could. For instance, it is estimated that at least one-third of such cases are the aftermath of pelvic inflammatory disease, caused by that uninvited venereal guest, gonococcus. Leaving aside any question about whether it makes sense for a federally funded baby to be the wage of aphrodisiac indiscretion, one can only look with wonder at a society that will have "petri-dish babies"[10] before it has found a vaccine against gonorrhea.

True, there are other causes of blocked oviducts, and blocked oviducts are not the only cause of female infertility. True, it is not logically necessary to choose between prevention and cure. But *practically* speaking, with money for research as limited as it is, research funds targeted for the relief of infertility should certainly go first to epidemiological and preventive measures—especially where the costs of success in the high-technology cure are likely to be great.

What about these costs? I have already explored some of the nonfinancial costs, in discussing the meaning of the research for our images of humanness. Let us, for now, consider

[10] There has been much objection, largely from the scientific community, to the phrase, "test-tube baby." More than one commentator has deplored the exploitation of its "flesh-creeping" connotations. They point out that a flat petri-dish is used, not a test tube—as if that mattered—and that the embryo spends only a few days in the dish. But they don't ask why the term "test-tube baby" remains the popular designation, and whether it does not embody more of the deeper truth than a more accurate, laboratory appellation. If the decisive difference is between "in the womb" or "in the lab," the popular designation

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only the financial costs. How expensive was Louise Brown? We do not know, partly because Drs. Edwards and Steptoe did not tell us how many failures preceded their success, how many procedures for egg removal and for fetal monitoring were performed on Mrs. Brown, and so on. To the costs of laparoscopy, fertilization and growth *in vitro*, and transfer, one must add the costs of monitoring the baby's development to check on her "normality" and, should it come, the costs of governmental regulation. A conservative estimate might place the costs of a successful pregnancy of this kind to be between $5,000 and $10,000. If we use the conservative figure of 500,000 for estimating the number of infertile women with blocked oviducts in the United States whose *only* hope of having children lies *in vitro* fertilization,[11] we reach a conservative estimate cost of $2.5 to $5 billion. Is it fiscally wise for the federal government to start down this road?

Clearly not, if it is also understood that the costs of providing the service, rendered possibly by a successful technology, will also be borne by the taxpayers. Nearly everyone now agrees that the kidney-machine legislation, obliging the federal government to pay an average of $25,000 to $30,000 per patient per year for kidney dialysis for anyone in need (costs to the taxpayers in 1983 were over $1 billion), is an impossible precedent—notwithstanding that individual lives have been prolonged as a result. But once the technique of *in vitro* fertilization and embryo transfer is developed and available, how should the baby-making be paid for? Should it be covered under medical insurance? If a national health insurance program is enacted, will and should these services be included? (Those who argue that they are part of medicine will have a hard time saying no.) Failure to do so will make this procedure available only to the well-to-do, on a fee-for-service basis. Would that be a fair alternative? Perhaps, but it is un-

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conveys it (see "An afterword" below). And it is right on target, and puts us on notice, if the justification for the present laboratory procedures tacitly also justifies future extensions, including full ectogenesis, say, if that were the only way a wombless woman could have a child of her own, without renting a human womb from a surrogate bearer.

[11] This figure is calculated from estimates that between 10 and 15 percent of all couples are involuntarily infertile, and that in more than half of these cases the cause is in the female. Blocked oviducts account for perhaps 20 percent of the

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likely to be tolerated. Indeed, the principle of equality—equal access to equal levels of medical care—is the leading principle in the press for medical reform. One can be certain that efforts will be forthcoming to make this procedure available equally to all, independent of ability to pay, under Medicaid or national health insurance or in some other way. (Only a few years ago, an egalitarian Boston-based group concerned with infertility managed to obtain private funding to pay for artificial insemination for women on welfare!)

Much as I sympathize with the plight of infertile couples, I do not believe that they are entitled to the provision of a child at the public expense, especially now, especially at this cost, especially by a procedure that also involves so many moral difficulties. Given the many vexing dilemmas that will surely be spawned by laboratory-assisted reproduction, the federal government should not be misled by compassion to embark on this imprudent course.

In considering the federal funding of such research for its other anticipated technological benefits, independent of its clinical use in baby-making, we face a more difficult matter. In brief, as is the case with all basic research, one simply cannot predict what kinds of techniques and uses it will yield. But here, also, I think good sense would at present say that before one undertakes *human in vitro* fertilization to seek new methods of birth control (e.g., by developing antibodies to the human egg that would physically interfere with its fertilization) one should make adequate attempts to do this in animals. One simply can't get sufficient numbers of human eggs to do this pioneering research well—at least not without subjecting countless women to additional risks not to their immediate benefit. Why not test this conceit first in the mouse or rabbit? Only if the results were very promising—and judged

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causes of female infertility. Perhaps 50 percent of these women might be helped to have a child by means of reconstructive surgery on the oviducts; the remainder could conceive only with the aid of laboratory fertilization and embryo transfer. These estimates do not include additional candidates with uterine disease (who could "conceive" only by embryo transfer to surrogate-gestators), nor those with ovarian dysfunction who would need egg donation as well, nor that growing population of women who have had tubal ligations and who could later turn to *in vitro* fertilization. It is also worth noting that not all the infertile couples are childless; indeed, a surprising number are seeking to enlarge an existing family.

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also to be relatively safe in practice—should one consider trying such things in humans. Likewise, the developmental research can and should be first carried out in animals, especially in primates. Though *in vitro* fertilization has yet to be achieved in monkeys, embryo transfer of *in vivo* fertilized eggs has been accomplished, thus permitting the relevant research to proceed. Purely on scientific grounds, the federal government ought not *now* to be investing its funds in this research for its promised technological benefits—benefits that, in the absence of pilot studies in animals, must be regarded as mere wishful thoughts in the imaginings of scientists.

There does remain, however, the first justification: research for the sake of knowledge itself—knowledge about cell cleavage, cell-cell and cell-environment interactions, and cell differentiation; knowledge of gene action and gene regulation; knowledge of the effects and mechanisms of action of various chemical and physical agents on growth and development; knowledge of the basic processes of fertilization and implantation. This is all knowledge worth having, and though much can be learned using animal sources—and these sources have barely begun to be sufficiently exploited—the investigation of these matters in *man* would, sooner or later, require the use of human embryonic material. Here, again, there are questions of research priority about which there is room for disagreement, among scientists and laymen alike. But there is also a more fundamental matter.

Is such research consistent with the ethical standards of our community? The question turns in large part on the status of the early human embryo. If, as I have argued, the early embryo is deserving of respect because of what it is, now and potentially, it is difficult to justify submitting it to invasive experiments, and especially difficult to justify *creating* it solely for the purpose of experimentation. The reader should test this conclusion against his or her reaction to imagining the Fertilizing Room of the Central London Hatchery or, more modestly, to encountering an incubator or refrigerator full of living embryos.

But even if this argument fails to sway our policy makers, another one should. For their decision, I remind you, is not

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whether *in vitro* fertilization should be permitted in the United States, but whether our tax dollars should encourage and foster it. One cannot, therefore, ignore the deeply held convictions of a sizable portion of our population—it may even be a majority on this issue—that regards the human embryo as protectable humanity, not to be experimented upon except for its own benefit. Never mind if these beliefs have a religious foundation—as if that should ever be a reason for dismissing them! The presence, sincerity, and depth of these beliefs, and the grave importance of their subject, is what must concern us. The holders of these beliefs have been very much alienated by the numerous court decisions and legislative enactments regarding abortion and research on fetuses. Many who by-and-large share their opinions about the humanity of prenatal life have with heavy heart gone along with the liberalization of abortion, out of deference to the wishes, desires, interests, or putative rights of pregnant women. But will they go along here with what they can only regard as gratuitous and willful assaults on human life, or at least on potential and salvageable human life, and on human dignity? We can ill afford to alienate them further, and it would be unstatesmanlike, to say the least, to do so, especially in a matter of so little importance to the national health and one so full of potential dangers.

Technological progress can be but one measure of our national health. Far more important is the affection and esteem in which our citizenry holds its laws and institutions. No amount of relieved infertility is worth the further disaffection and civil contention that the lifting of the moratorium on federal funding is likely to produce. People opposed to abortion and people grudgingly willing to permit women to obtain elective abortion but at their own expense will not tolerate having their tax money spent on scientific research requiring what they regard as at best cruelty, at worst murder. A wise secretary of health and human services should take this matter most seriously, and continue to refuse to lift the moratorium—at least until persuaded that the public will give its overwhelmingly support. Imprudence in this matter may be the worst sin of all.

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An afterword

This has been for me a long and difficult exposition. Many of the arguments are hard to make. It is hard to get confident people to face unpleasant future prospects. It is hard to ask people to take seriously such "soft" matters as lineage, identity, respect, and self-respect when they are in tension with such "hard" matters as a cure for infertility or new methods of contraception. It is hard to claim respect for human life in the laboratory in a society that does not respect human life in the womb. It is hard to talk about the meaning of sexuality and embodiment in a culture that treats sex increasingly as sport and has trivialized gender, marriage, and procreation. It is hard to oppose federal funding of baby-making in a society that increasingly expects the federal government to satisfy all demands, and that—contrary to so much evidence of waste, incompetence, and corruption—continues to believe that only Uncle Sam can do it. And, finally, it is hard to speak about restraint in a culture that seems to venerate very little above man's own attempt to master all. Here, I am afraid, is the biggest question about the reasonableness of the desire to become masters and possessors of nature, human nature included.

Here we approach the deepest meaning of *in vitro* fertilization. Those who have likened it to artificial insemination are only partly correct. With *in vitro* fertilization, the human embryo emerges for the first time from the natural darkness and privacy of its mother's womb, where it is hidden away in mystery, into the bright light and utter publicity of the scientist's laboratory, where it will be treated with unswerving rationality, before the clever and shameless eye of the mind and beneath the obedient and equally clever touch of the hand. What does it mean to hold the beginning of human life before your eyes, in your hands—even for five days (for the meaning does not depend on duration)? Perhaps the meaning is contained in the following story.

Long ago there was a man of great intellect and great courage. He was a remarkable man, a giant, able to answer questions that no other human being could answer, willing boldly to face any challenge or problem. He was a confident man, a masterful man. He saved his city from disaster and

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ruled it as a father rules his children, revered by all. But something was wrong in his city. A plague had fallen on generation; infertility afflicted plants, animals, and human beings. The man promised to uncover the cause of the plague and to cure the infertility. Resolutely, confidently, he put his sharp mind to work to solve the problem, to bring the dark things to light. No secrets, no reticences, a full public inquiry. He raged against the representatives of caution, moderation, prudence, and piety, who urged him to curtail his inquiry; he accused them of trying to usurp his rightfully earned power, to replace human and masterful control with submissive reverence. The story ends in tragedy: He solved the problem, but, in making visible and public the dark and intimate details of his origins, he ruined his life and that of his family. In the end, too late, he learns about the price of presumption, or overconfidence, of the overweening desire to master and control one's fate. In symbolic rejection of his desire to look into everything, he punishes his eyes with self-inflicted blindness.

Sophocles seemed to suggest that such a man is always in principle—albeit unwittingly—a patricide, a regicide, and a practitioner of incest. These are the crimes of the tyrant, that misguided and vain seeker of self-sufficiency and full autonomy, who loathes being reminded of his dependence and neediness and who crushes all opposition to the assertion of his will, and whose incest is symbolic of his desire to be the godlike source of his own being. His character is his destiny.

We men of modern science may have something to learn from our philosophical forebear Oedipus. It appears that Oedipus, being the kind of man an Oedipus is (the chorus calls him a paradigm of man), had no choice but to learn through suffering. Is it really true that we, too, have no other choice?

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The perils of early motherhood

ISABEL V. SAWHILL

CONSERVATIVES have decided that what ails America is that not enough of us are getting and staying married. They have a point. Not only are fewer people marrying than in the past but, more disturbingly, one out of every three children is born outside of marriage. The life chances of these children are seriously compromised. Far more of them will grow up in poverty, fail in school, and enter adolescence with a propensity to repeat their parents' youthful mistakes. Indeed, as Jonathan Rauch has argued, and the data suggest, marriage is displacing both earnings and race as a source of division in America. Children growing up in a one-parent family are four times as likely to be poor as those growing up in a two-parent family, and those growing up in a single-parent white family are three times more likely to be poor than those growing up in a two-parent black family.

Not all children in single-parent homes are adversely affected, of course, but the odds that they will succeed are

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considerably lower than for children who grow up in intact families. Moreover, when single-parent families predominate in a community, children grow up with few male role models and do not view marriage as a realistic option. The argument that this gives rise to various forms of antisocial behavior, especially among young men, remains controversial, but it should not be dismissed.

Having successfully reformed the tax system to favor marriage in 2001, conservatives are now targeting the welfare system. They are disappointed that most states have not taken to heart the strong emphasis on marriage and on reducing unwed childbearing in the 1996 federal welfare-reform law, known as Temporary Assistance for Needy Families or TANF. In the round of reform expected in 2002, they want these family formation goals to be given at least as much weight as the goal of moving single mothers into work.

But this raises the question of how best to achieve these goals. Robert Rector of the Heritage Foundation has suggested earmarking 10 percent of all TANF funds (about $1.5 billion per year) for such activities as marriage education and counseling, especially in high-risk communities. Charles Murray has suggested, as an experiment, cutting off all means-tested benefits for unwed mothers under 18 in one state. Governor Frank Keating of Oklahoma is emphasizing a reduction in divorce rates. Many in the "fatherhood movement" want more resources devoted to helping young unwed fathers acquire the motivation, skills, and job opportunities that will enable them to marry the mothers of their children—or barring that, at least to be more involved in raising these children. Still others want to target young people who have not yet married or had children in order to prevent unwed births from occurring in the first place. The current welfare-reform law contains a number of provisions intended to reduce nonmarital births. These include a requirement that teen mothers live with their parents or in another supervised setting, bonuses for states that reduce out-of-wedlock childbearing, and funding for abstinence education programs. The law also permits states to deny additional benefits to women who have children while on welfare ("family caps").

These agendas are not necessarily mutually exclusive, but

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they involve different strategies (encouraging marriage, reducing divorce, discouraging early births) and different target groups (married or romantically involved couples, unwed parents, and young unmarried men and women, including teens). Obviously, marriage is a good thing, but in my view, preventing early childbearing among those who are still young and unmarried is likely to yield the most social benefits, including the restoration of the institution of marriage.

Is marriage the solution?

Most people would agree that the ultimate goal is to increase the number of children growing up with two biological, married parents. Reducing divorce rates can contribute to this end. However, after increasing sharply in the 1960s and 1970s, divorce rates have leveled off or even declined modestly since the early 1980s. Moreover, children in divorced families are generally much better off than those born to never-married mothers: They more often retain a relationship with both parents, are more likely to receive support from a nonresident father, and are less likely to receive welfare or other government assistance. Finally, most of the increase in child poverty between 1980 and 1996 was related to the increase in nonmarital childbearing over this period, not to greater divorce. In short, efforts to strengthen marriages in ways that reduce the likelihood of divorce should be welcomed, but divorce rates, though high, are not the crux of the problem and should not be the focus of any new effort.

The real problem is too many unmarried women having babies. Most of these women are very young when they have their first child. While only 30 percent of *all* nonmarital births are to women under the age of 20, half of *first* nonmarital births are to teenagers and most of the rest are to women in their early twenties. So the pattern typically begins in the teenage years or just beyond, and once begun often leads to additional births outside of marriage. There are two solutions to this problem. One is to encourage these young women to marry the fathers of their children (assuming the fathers are willing). The other is to convince them to delay childbearing until they are older and married.

Most women eventually do marry—90 percent by age 45.

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The problem is one of timing. Up until their mid twenties, more women have had babies than are or have been married. Those calling for more marriage are really calling for earlier marriages. But this would reverse a strong and generally healthy trend toward marriage at a later age among both men and women. Between 1960 and 1999, age at first marriage increased from 20 to 25 for women and from 23 to 27 for men. Age at first marriage is one of the strongest predictors of marital stability. One recent study by Tim Heaton at Brigham Young University based on data from the National Survey of Family Growth finds that almost all of the decline in divorce rates since 1975 is related to the increase in age at first marriage. Not only is this trend good for marriage, it is good for children as well. Younger mothers often lack the maturity, patience, and education that a child needs.

The argument will be made that in earlier times it was common for women to marry young. But our economy now demands much higher levels of education than in earlier periods, and women as well as men have greater opportunities to pursue both education and a career beyond high school. To be sure, some women may want to forego such opportunities in order to become full-time wives and mothers at an early age. But a social policy that actively encourages such early marriage would be inconsistent with one that also favors investments in education and in stable, long-term marriages.

Perhaps what is really intended by marriage advocates is not a set of policies that would encourage earlier marriages across the board but only in cases where a woman is already pregnant or has had a child. Such "shotgun" or "after-the-fact" marriages to the biological father were common in the past but have virtually disappeared in recent years. Their modern counterpart is what is often called "fragile-family" initiatives—efforts to work with young couples, many of whom are romantically involved or cohabiting at the time of the baby's birth, to form more stable ties and, where appropriate, to marry. These efforts often involve education, training, counseling, and peer support for the fathers. An evaluation of one such effort, Parents Fair Share, produced somewhat disappointing results. About two-fifths of all out-of-wedlock births are to cohabiting couples, and cohabitation seems to be rapidly replacing mar-

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riage as a preferred living arrangement among the younger generation. These cohabiting families are much less stable than married families. Less than half of them stay together for five years or more. Whether such couples can be persuaded to marry and whether these marriages would endure if they did is not clear, but some research suggests that marriages preceded by cohabitation are less stable than those that are not. In the meantime, any program that provides special supports, such as education and training to unwed parents, whether mothers or fathers, runs the risk of rewarding behavior that society presumably would like to discourage.

Many unwed mothers cohabit not with the biological father of their children but with another man, and some of these relationships may also end in marriage. But, surprising as it may seem, such stepfamilies seem to be no better for children than being raised in a single-parent home.

The real problem

More importantly, once a woman has had a child outside of marriage, her chances of marrying plummet. Daniel Lichter of Ohio State University finds that the likelihood that a woman of a given age, race, and socioeconomic status will be married is 40 percent lower for those who first had a child out of wedlock (and 51 percent lower if we exclude women who marry the biological father within the first six months after the birth). By age 35, only 70 percent of all unwed mothers are married, in contrast to 88 percent among those who have not had a child. Lichter compares women who had a premarital pregnancy terminated by a miscarriage to those who carried to term, and finds that these differences in marriage rates persist. This suggests that the lower rates of marriage are caused by having a baby out of wedlock, rather than simply reflecting the pre-existing characteristics of this group of women. Unwed mothers are less likely to spend time at work or in school where they can meet marriageable men. And having had one child out of wedlock, they appear to be relatively uninhibited about having additional children in the same way. For these or other reasons, early unwed childbearing leads to less marriage and more illegitimacy. Thus a key strategy for bringing back marriage is to prevent the initial birth

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that makes a single woman less marriageable throughout her adult years.

Not only are unwed mothers less likely to marry than those without children, but when they do marry, they do not marry as well. Their partners are more likely to be high school dropouts or unemployed than the partners of women who have similarly disadvantaged backgrounds but no children. Although marriage improves an unwed mother's chance of escaping from poverty, it does not offset the negative effects associated with an unwed birth, according to Lichter and his colleagues.

My conclusion is that efforts to promote marriage and reduce divorce hold little promise for curbing the growth of single-parent families. What is needed instead is a serious effort to reduce early, out-of-wedlock childbearing—something that, unlike encouraging marriage, we probably can accomplish. Certainly, some of what needs to be done is controversial, but no more so than the promarriage agenda that many conservatives now tout. Indeed, the public consensus in favor of reducing teen pregnancy and early childbearing is strong, whereas support for a promarriage agenda is considerably weaker. Whole segments of the body politic are skeptical of, if not downright opposed to, the marriage agenda. This includes, in addition to many feminists, some conservatives of a libertarian bent for whom this seems like social engineering run amok. Finally, a promarriage agenda is undercut by powerful cultural trends. As Claudia Winkler, managing editor of the *Weekly Standard*, has noted, the effort to restore a marriage culture "is at odds with deep-rooted, centrifugal American values—individualism, pluralism, the separation of church and state—that have never been more vigorous." Of the two means for insuring that more children are born in wedlock—delayed childbearing or earlier marriages—the former is most consistent with these deep-rooted values.

Of course, we should use the bully pulpit to promote marriage, provide premarital education and counseling, and encourage communities, schools, and parents to teach young people about the benefits of marriage. We should also reduce some of the financial disincentives to marriage, especially in low-income communities. Congress acted in 2001 to eliminate the marriage penalty in the tax code, including the large mar-

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riage penalty associated with the Earned Income Tax Credit. Many states have liberalized welfare eligibility standards for two-parent families. More could be done, but any meaningful reduction of marriage penalties in income-tested programs carries enormous budgetary costs and is unlikely to significantly affect behavior. Without a strong effort to prevent early childbearing, these other strategies are unlikely to reduce the growth of single-parent families or to improve the economic and social environment of children.

Reducing early childbearing

After climbing steadily at almost 1 percentage point per year for over 20 years, the proportion of births outside of marriage ("the nonmarital birth ratio") leveled off after 1994. This development could be related to an increase in marriage, an increase in births to married women, or a decrease in births to unmarried women, but it appears to be primarily due to this last factor. The teenage birth rate (four-fifths of teen births are out of wedlock) has declined since 1991. In fact, if there had been no decline in the teen birth rate, the nonmarital birth ratio would have continued to climb through the late 1990s, though not as rapidly as in the prior decade. More specifically, if teen birth rates had held at the levels reached in the early 1990s, the nonmarital birth ratio would, by 1999, have been more than a percentage point higher. This suggests that a focus on teenagers (although not to the exclusion of women in their early twenties, who also contribute disproportionately to out-of-wedlock births) has a major role to play in reducing both out-of-wedlock childbearing and the growth of single-parent families.

What caused the decline? Can additional steps be taken to lower the rate (and ratio) further? The decline in teen pregnancy rates and births has been driven by both declining rates of sexual activity among teens and better contraception. Proponents of abstinence like to think that the former has been most important, while proponents of birth control give greater weight to changes in contraceptive behavior. From the existing data, it is not possible to determine the precise role of each, but almost everyone agrees that both have been important. There is a growing public consensus that abstinence is

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preferable, especially for school-age youth, but that contraception should be made available. Polling by the National Campaign to Prevent Teen Pregnancy has consistently found majority support for this view, with 73 percent of adults agreeing with the proposition that teens should not be sexually active but that if teens are they should have access to contraception. Support for this moderate position has increased 14 percent since 1996.

The emphasis on abstinence, including new funding for abstinence education in the 1996 welfare-reform bill, is helping to reduce teen pregnancies and out-of-wedlock births. Yet evaluations of abstinence education programs have thus far failed to show much evidence of success. How does one explain this discrepancy? In my view, the messages about abstinence are having an impact less because they are embedded in so-called "abstinence only" education programs and more because they have influenced the entire culture, from traditional sex education programs and faith-based efforts, to messages in the media, to the way in which parents communicate with their children. The abstinence message is no longer the exclusive province of a small band of conservative activists. It is now being promoted by many liberal groups and is widely endorsed by most ordinary Americans, including parents, teachers, many political leaders, and to a lesser degree, by teens themselves. This shift in both attitudes and behavior during the 1990s, to which the fear of AIDS and other sexually transmitted diseases contributed, is significant.

The decline in teen pregnancy and birth rates beginning in the early 1990s predates welfare reform. We saw a drop in second or higher-order births to teens who were already mothers in the early 1990s, and this appears to have been caused by the availability for the first time of longer-lasting, more effective forms of contraception such as Depo Provera. These methods are not widely used but have caught on particularly among the subgroup of young women who have already had a baby. But a much sharper decline in births to teens began in the latter half of the 1990s. Evidence suggests that welfare reform, along with more extensive and effective efforts to prevent teen pregnancy, played a large role in producing recent trends.

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Messages and programs

Not only has the teen birth rate declined and the nonmarital birth ratio leveled off, but in the late 1990s the proportion of children living in a single-parent family stabilized or even declined modestly for the first time in many decades. This reversal was most notable for low-income families and for those with less education or very young children, just as one would expect if welfare reform were the cause. Looking at data for 1997 and 1999, for example, Gregory Acs and Sandi Nelson of the Urban Institute found that the share of families composed of single mothers living independently declined almost 3 percentage points more among families in the bottom income quartile than among those in the second quartile.

It would be premature to attribute all or even most of these changes to the 1996 law. Evaluations of some of the provisions, such as family caps, the state illegitimacy bonus or abstinence education programs, have not shown clear impacts. Arguably, much more important than any of these specific programs are the new messages sent by welfare reform about time limits, work, and abstinence. Young women who decide to have children outside of marriage now know that they will receive much more limited assistance from the government. Young men are getting the message that if they father a child they will be expected to pay child support. The steady, broad messages about work, family formation, sexual abstinence, and the need for fathers to support their children are the key.

These messages have been combined with new efforts on the part of states, communities, and nonprofit (including faith-based) organizations to prevent teen pregnancy. Unfortunately, current efforts, although more extensive than in the past, are fragmented, underfunded, and often ineffective.

The good news is that in the past five years, research on teen pregnancy prevention programs has found that a number are working. Douglas Kirby's review, *Emerging Answers*, published in the summer of 2001, identifies several rigorously evaluated programs that have reduced teen pregnancy rates by as much as one-half. Some effective programs involve teens in community service or afterschool activities with adult supervision and counseling. Others focus more on sex education but not necessarily just on teaching reproductive biology. The most

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effective sex education programs provide clear messages about the importance of abstaining from sex or using contraception. They teach teens how to deal with peer pressure and how to communicate and negotiate with partners. This research needs to be aggressively disseminated. Since there are a variety of different approaches that can be effective, communities should be allowed to choose the ones that best fit their needs and values.

More emphasis also needs to be placed on the potential of sophisticated media campaigns to change the wider culture. Such campaigns have been used to change a variety of behaviors in the past, but their full potential has not been tapped in the case of pregnancy prevention. Some nonprofit groups, such as the National Campaign to Prevent Teen Pregnancy and the National Fatherhood Initiative, are working in partnership with the media to include new messages in the television shows most often watched by teens. Many states are using the abstinence education funds from the welfare-reform bill for public-service announcements, but additional resources, including some that could be used to design and implement a national effort, are needed.

Social policy that works

The reforms instituted in 1996 sent a strong message that women who bear a child outside of marriage will no longer be able to raise that child without working, and that the men who father such children will have to contribute to their support. The early indications are that this message is being heard: Teen birth rates have fallen, the share of children born out of wedlock has leveled off, and the share of young children living in married families has grown. And given time for new social norms to evolve, the effects of reform will likely increase. The goal of increasing marriage is laudable, but pushing tough promarriage policies (such as denying all benefits to young women having children out of wedlock) farther would upset the fragile political coalition supporting current reforms.

Our focus must remain on childbearing outside of marriage, not marriage per se. Divorce rates may be high, but they are not increasing and have played no role in the growth of single-parent families for several decades. Most of that growth, and the associated growth in child poverty in the

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1980s and early 1990s, was caused by increased childbearing among young, single women. Once such women have had a child, their odds of ever getting married plummet. Many point to the shortage of "marriageable men"—that is, men with good job prospects—in the communities where these women live, but there is a shortage of "marriageable women" as well. Most men are going to think twice about taking on the burden of supporting someone else's child.

If we want to encourage marriage, prevent divorce, and ensure that more children grow up with married parents, we must first insure that more women reach adulthood *before* they have children. This is a necessary, if not sufficient, condition for success. It implies redoubling efforts to prevent teen pregnancy. And it means convincing young men and women who have not yet had a baby that there is much to lose if they enter parenthood prematurely, and much to gain if they wait until they are married.

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The politics of broadband

IRWIN M. STELZER

THE terrain is an industry we have more daily contact with than any other—the communications industry. The battle is intensely ideological, and the outcome may be the worst of all public-policy mixes—regulation of the industry where it is not needed, and the absence of regulation where it is.

The communications industry includes the companies that produce the newspapers we read, the radio programs we listen to, the cable and network television programs we watch, the movies at our local cinema, the music piped into stores and restaurants, and the technology and facilities that constitute the telephone network, Internet, and other components of the "New Economy." In combination, these increasingly interrelated industries affect the content and flow of news, the speed and cost of communication, and the character of films, television programs, and other similar products. The major players include the massive AOL-Time Warner complex of Internet, cable, and print products; AT&T, the nation's largest cable

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operator and provider of long-distance telephone service; Sony, with its ubiquitous Walkman, Play Station, cellphones, and shiny Vaio personal computers; Verizon, which provides local and long-distance telephone service and Internet access over its wires; Microsoft, which now seeks to control much of future entertainment and interactive services; Disney, with its films, television network, theme parks, cruise ships, and sports teams; Comcast with its cable operations; the Tribune group, with its numerous television stations and radio, publishing, interactive and newspaper interests; and News Corp, with its world-spanning satellite television operation, 33 television stations, book publishing business, program guides and film production. These companies are battling for their share of consumers' time, which in the case of television, film, and Internet companies means competing for "eye-balls." They either charge consumers directly for access to their products (movie tickets, fees for access to sports and film channels) or charge advertisers who are trying to reach consumers.

Political temptations

It would be naïve to expect politicians to ignore an industry that has so profound an effect on the lives of Americans. Some, like William Bennett and Senator Joseph Lieberman, worry that these companies' products contribute to the crime problem and the subversion of important values. Others, like Senator Fritz Hollings, worry that these industries are becoming too highly concentrated and that as a result, fewer opinions are heard and democracy suffers. Still others, like Federal Communications Commission (FCC) chairman Michael Powell, worry that these industries are already over-regulated, resulting in under investment and a too-slow pace of innovation.

Within the media and telecommunications industry, Microsoft is concerned that AOL-Time Warner might acquire too much power over the facilities required to gain access to the Internet, and Disney that this newly merged giant might control so large a portion of the cable industry that it might be able to block Disney's products from American homes. Producers of what is now called "content" (what you see on your computer, television, and movie screens) worry that Microsoft might gain control of the "set-top box"—a box that will sit on top of your

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television set and serve as a gateway for access to entertainment and interactive services—and use that gateway to extract a toll from viewers and those who would use the Internet to handle check payments and purchase goods that are advertised on television. These large and wealthy corporations all lobby intensely to influence policy in their favor.

It would also be naïve to expect politicians to ignore an industry on the cutting edge of new technology. There seems to be something about technology that drives normally sensible policy makers mad. Either they wish to prevent its introduction because it might threaten the livelihood of their constituents, or they wish to see the technology introduced and diffused at a rate more rapid than market forces would dictate. A few decades ago, nuclear power was the darling of governments—it would make electrical energy abundant and cheap, too cheap to bother metering. In actuality, nuclear power proved inordinately expensive, even with the large subsidies lavished on it in the form of limits on liability for accidents. Perhaps solar power would be better, or so government policy makers thought as they doled out millions in subsidies, with little return so far. That cycle of subsidization is about to begin again as the administration and Congress prepare to heap funds on their current preferred producers and conservers of energy.

The irrationality that overwhelms policy makers when they deal with new technologies is magnified when those technologies are associated with the telecommunications and media industries. Politicians quite naturally worry about the effects of new technologies on the democratic process, on their own election prospects, and about the welfare of those constituents who are unable to obtain access to them.

Politicians are also concerned about the competitiveness of the United States in the world economy. "The rapid pace of globalization" has become a phrase without which any congressman's speech is incomplete. Because the world is shrinking, because firms increasingly operate across national boundaries, nations now compete with each other in a world market. Only those nations that adopt the latest technology and insure its rapid diffusion will prosper. Or so goes the argument, which is the usual mixture of substance and non-

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sense. Nations do not compete against other nations for slices of an economic pie of fixed size; the pie grows as productivity and trade grow. But it is true that, in the end, living standards depend in good part on the rate of productivity growth. New technologies have stimulated that growth by lowering the cost of communication, as well as business-to-business and consumer-to-business transaction costs. By increasing the volume of information available to those who are "wired," they thereby lower its cost.

The recent so-called "dot-com bust" has not changed these basic economic principles. After a period in which capital was made available to new technology companies in amounts that could not efficiently be spent, we are entering a period in which realism trumps wide-eyed optimism. This has brought pain to many investors who unknowingly followed in the footsteps of earlier generations of imaginative but, alas, doomed investors in other new technologies—from automobiles to railroads to nuclear plants. But private pain should not be allowed to obscure public gain. The original investors may be gone, or rather have traded their jeans and t-shirts for clothing more appropriate for job interviews in old-economy companies. But at least a portion of the capital made available to them has built an infrastructure that remains in place, and that promises the benefits of improved productivity in the decades to come.

Policy makers also talk about what is known as the "digital divide." It is said that the rich enjoy access to the new technologies while the poor are excluded, with unfortunate consequences for their educational and employment opportunities. Senator Tom Harkins has proposed legislation to bridge the digital divide for people with disabilities; others want to bring computer access to minorities, old folks and children, rural areas and urban ghettoes. Bill Clinton, typically more expansive, at least rhetorically, than even the most liberal of his colleagues, used a Rose Garden speech to announce his goal: "We must connect all of our citizens to the Internet, not just in schools and libraries, but in homes, small businesses, and community centers." Internet access, he added, is a "key civil-rights issue for the twenty-first century," since 30 percent of white Americans are connected to the Internet, compared with

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only 11 or 12 percent of African Americans and Hispanic Americans.

The gulf between liberals and free-marketers on this question was demonstrated by Michael Powell, who responded to congressional inquiries about how he planned to solve this problem by joking that there is also a "Mercedes divide," and that he regrets being on the wrong side of this line. Such divides there will always be, and they will be most noticeable in high-technology industries, where so-called "early adopters" will pay high prices to get their hands on new gadgets before cost reductions enable manufacturers to tap a mass market. Those who favor government intervention are unhappy with the pace at which new technologies become available to the non-affluent. In contrast, those who prefer to rely on markets rather than on subsidies or other means of speeding up the diffusion process argue that the proper goal of policy is to create an economic system that enables people on the wrong side of any divide to cross over.

The debate

Policy makers with faith in the efficacy of free markets are untroubled that many cannot afford goods and services in the early phases of their commercialization. They argue that purchasing power reflects incomes, and incomes in turn reflect the value of the labor, inventiveness, and other contributions that the recipient makes to society. Free markets encourage the development and diffusion of new technologies at a pace responsive to consumer demand. The government's proper role is to keep the avenues of opportunity open to all equally, without discrimination based on characteristics other than ability. They argue that many of those who start out with little purchasing power can move steadily up the ladder of affluence, eventually taking advantage of those new gadgets and technologies.

When it comes to the new communications technologies, however, many critics have seriously challenged this argument. Set aside the complaint that the current distribution of income—and here we mean after-tax income, reflecting our current redistributionist tax policies—is less satisfactory than it would be if governments would make the tax system more

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"progressive." Consider, instead, the contention that these new technologies are not like cars: Whether one drives a Mercedes or a Ford, one is not prevented from getting to a job or to a classroom. But it may be the case that exclusion from access to the information available to the "wired" or "connected" will deprive the "unwired" of the opportunity to move ahead in society.

Perhaps, but not certainly. To carry the analogy with cars one step further, those who do not own cars because they cannot afford them can use public transportation. So with the unwired: Even without connecting to the Internet, they have access to myriad sources of news and entertainment and to information concerning, for example, employment, health services, and legal aid. For those who worry about the social consequences of digital deprivation, however, access to alternatives to the Internet is no substitute for access to the Internet.

In order to bridge the "digital divide," they look to the telephone industry as a model. Universal access—justified in part by the sound notion that every person connected to the telephone system adds value to the service of all the others—was more or less achieved. Unfortunately, this model is flawed and should not be applied to Internet access. The telephone industry was developed by granting monopoly franchises to private-sector firms. That this monopoly model produced enormous inefficiencies, overmanning, appalling service standards and high prices was learned only when competition was introduced. Until then, policy makers congratulated themselves on a major virtue of the telephone monopoly: It was uniquely positioned to cross-subsidize—to force one set of customers to bear some of the costs imposed on the system by other customers. By overcharging some users, the monopoly obtained sufficient revenues to offer below-cost service to those customers that government designated as worthy of receiving that bargain service—namely, those in sparsely populated areas, small residential customers, members of the clergy, and fire departments. The monopoly offered nonremunerative rates and made up the shortfalls by overcharging city dwellers, business customers, and others. The result was universal access (actually, 94 percent).

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One advantage of this approach, from the view of the politicians and regulators, was that it enabled them to subsidize favored groups without dipping into the treasury, a form of stealth taxation. But the game ended when competition emerged. For the disfavored customers, faced with prices far above the cost of serving them, could now turn to other providers, who were not burdened with the need to subsidize other users. If a long-distance service provider tries to overcharge some customers so as to supply service to others at below-cost rates, how long will it be before a competitor offered the disfavored customer a better deal? About as long as it takes to mount an advertising campaign in the discriminated-against areas. This is why there is a tax on all long-distance carriers to fund the subsidization of some residential access to the telephone system.

This also explains why we have the "Gore tax." Most consumers may not know this, but a multibillion-dollar annual tax is loaded onto their telephone bills to finance the connection of schools to the Internet. This tax gets its name from its principal defender, who was untroubled by the fact that it was imposed by the FCC, not by Congress. Since all users of the telephone system pay this tax, they cannot escape it by going to a provider who, by virtue of avoiding the tax, can offer them cheaper service.

This approach to speeding the spread of a new technology, with its hidden taxes and subsidies, means in effect that the government selects who gets something for nothing. In the case of the new technology, and especially broadband technology, to which I will turn in a moment, the list of those deemed worthy of government subsidies is enormous—a list so long that no government could accommodate it. As a result, if government is to encourage a rapid rate of innovation and diffusion, alternative, market-oriented policies have to be considered.

The first goal—encouraging rapid innovation—can be met by vigorously protecting intellectual property, a perfectly appropriate role for government. The risks that a research effort will come to naught, that some other inventor will beat the putative innovator to the finish line, and that what seems feasible in the laboratory will prove too costly or impossible

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to produce in marketable quantities all point to the necessity of protecting intellectual property. The rewards of success must be sufficient to attract the needed financial and intellectual capital to the game.

But the level of these rewards is directly related to the inventor's ability to deprive others of the use of his intellectual product. This creates a problem for governments interested not only in encouraging a rapid rate of innovation but also in having it diffused as quickly as possible. So any sensible policy for the high-tech media and telecommunications industry must not only vigorously protect intellectual property but also preserve competition to ensure that no artificial barriers to the diffusion of innovation are created.

When to regulate

Which brings us to another divide—this one based on ideology. Regulation is anathema to conservatives such as Michael Powell; it is the meat on which interventionist politicians such as Senator Hollings and his allies, among them Senator Ted Kennedy, feed. But to take a sweeping stance in favor of or against regulation is to ignore the fact that intervention to preserve competition is a very different thing from intervention to produce a political result. Faced with a market that is not competitive, government can intervene to create or restore competition, or it can intervene to set the prices in that market. The former is a self-limiting intervention, the latter a permanent extension of government power.

That is why it is not useful to be simply "for" or "against" regulation, without attention to the context in which these policies are proposed. Confronted with highly competitive media markets in which newspapers, television stations, magazines, and other media compete for consumers' attention, it is quite right to deregulate. Rules that prevent one company from owning both a newspaper and a television station in the same market have been made obsolete by the proliferation of sources of news and entertainment. Furthermore, in a world in which the reach of media companies is truly global, it makes sense to repeal the rules established in the 1940s to prevent the Germans from getting control of radio stations, which to this day limit foreign ownership of television sta-

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tions. There are simply too many ways for Americans to get news for them to be corrupted by a single foreign owner who may have foreign-policy goals inimical to those of the United States.

However, confronted with local telephone companies that have a monopoly over the famous "last mile"—the bit of wire that goes from the curb into the house—and a history of denying access to competitors, it would be folly to deregulate, at least until competitive conditions can be established. Similarly, it would be folly to ignore the possibility that an overly powerful cable company might use its control over distribution to depress the prices paid to "content creators," or to favor their own programs over those of competitors.

An approach of distinguishing what government should and should not do, based on the specific market structures and the competitive environment involved, might appall some conservatives, who prefer the mantra of deregulation to the hard work of economic analysis. But it would please Adam Smith. He understood that when efficiency is the goal, competition is to be preferred to regulation as the allocator of resources, and that government action is often necessary to make markets work well enough to avoid the need for more government activity.

Broadband technology

At present, most people who are connected to the Internet obtain access over ordinary telephone lines. These lines are thin straws through which it is slow and difficult to push data, pictures, and other material available on the Internet. Broadband, on the other hand, is a fat pipe through which everything moves easily and speedily, including movies and television broadcasts. Its features are available via DSL (digital subscriber-line) connections that convert ordinary telephone wires into high-speed data links, via modems that produce the same result using the fiber-optic and coaxial cables of cable television providers, or via satellite and wireless terrestrial systems.

Governments around the world are swooning over the potential of broadband—although policy makers do not always have a clear answer to the question, "potential for what?".

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Just as politicians once saw supersonic travel as a solution to a variety of problems they could not specify, so, too, many today see broadband Internet access as a solution to problems it in fact cannot possibly solve. Internet access will, we are told, make it possible for people on welfare to find jobs—jobs that they have been unable to find, presumably, after vigorous searches without the benefit of broadband access. It will enable students who cannot get a decent education by attending classes (or in spite of attending classes) to troll the Web for inspiration and knowledge, and to have lessons and images shot from professor to student at lightning speed. And it will give citizens access to more sources of news, which may entice them to become more active participants in the political process. (Of course, it could have the opposite effect, if the proliferation of news outlets and the simultaneous decline of voter participation prove to be causally related.)

But there is reason to be skeptical that an all-out drive for universal Internet and broadband access will have the beneficial effects claimed for it. First, we simply cannot predict how the new media technologies will develop. They may provide the silver bullet that will put an end to, or ameliorate, many social problems. But, then again, they may not, either because they prove to be more costly than other methods of achieving the same goals or because other, future inventions prove superior.

Second, experience shows that governments are inept at picking technological winners—the Concorde, nuclear power, and "clean coal" leap to mind. Worse still, governments combine this ineptitude with a reluctance to correct errors. When a private-sector business guesses wrong, it suffers the consequences. When a government gets things wrong, the tendency is to deny responsibility and perpetuate the error. Competitive markets are self-correcting; government bureaucracies are not.

Third, it is far from clear that in a multi-media universe—in which consumers have a choice of scores of radio stations and television channels, magazines, and local and national newspapers—people need government to "connect" them to still more media outlets. Indeed, it sometimes seems to take more effort to avoid the "Knowledge Economy" than to participate

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in it: Kiosks abound, headlines shriek, taxicab radios chatter, and television screens are ubiquitous.

These are not the only reasons for questioning government efforts to increase the spread of broadband and other technologies. The fact is we simply do not know whether consumers want all of the benefits that such technologies can bring—witness the slow adoption rates of some of the newer technologies with far greater capabilities than the good old VCR. We do know that there is a viable market for an increased choice of entertainment services. But these services hardly rank among the necessities of life, and they can already be had from cable or satellite companies at a cost that is not beyond the reach of most consumers.

Indeed, it is unclear that those groups for whom broadband services are affordable are willing to pay prices that make these services profitable for companies to provide. Here it is important to distinguish between what economists call "desire" and "demand." The latter is the former backed by the ability and willingness to pay. Many consumers may "desire" broadband access, but so far there is little evidence that they massively "demand" it—that is, are willing to pay the prices being charged for that access by telephone and cable companies. It is one thing to curse the slowness of your Internet-service provider; it is quite another to be willing to pay 40 to 50 dollars per month for instant broadband access to the Web.

The demand that does exist is butting against supply constraints. Cable operators in the United States make more money from selling premium channels than they do from selling the modems that give consumers broadband access, and telephone operators seem unable to organize installations of the hardware necessary for DSL service. As a result, we do not know whether the relatively low adoption of broadband reflects a lack of demand at the prices that would prevail in competitive markets or the inability of customers to get the service they demand.

The optimists who argue that broadband applications such as video-on-demand (the program you want, when you want it) will spur the diffusion of this technology may prove to be right. In this case, there is no reason to doubt that mass demand will bring down prices and increase availability. The

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fact is that no one really knows how extensive consumer demand for broadband access, or even Internet access, really is, least of all those calling for making it universally available. Once again, the key will be the effectiveness of competition. To the extent that cable and telephone companies, and eventually satellite operators, compete, we can expect broadband availability to increase and prices to fall. But this will not occur as rapidly as it otherwise might if the local providers of telephone service are permitted to maintain tight control over the so-called "last mile of wire," preventing firms that might eventually offer broadband service from entering the market. Another obstacle will arise if cable providers are permitted to deny access to competing companies.

Finding a balance

It has been government policy to deny local telephone companies permission to enter the long-distance market until they have opened their system to competitors. Of late, the FCC has been more willing to allow local companies to enter the market, often as a reward for the most minimal market-opening steps and despite anticompetitive tactics that have brought large, but not behavior-changing, fines down on their heads. This is a clear instance of the problem that arises when deregulation becomes a religion rather than a policy that rests on a proper understanding of the market structure—one that assures that the invisible hand can replace the long arm of government.

Those of us who are wary of government intervention are fortunate that many of the rules now being reviewed by the FCC are no longer necessary. But free-marketers who would automatically suspend the rules still needed to constrain monopoly power place too great a faith on the all-curing powers of technology or the benevolence of monopolists. Free-market ideology can be useful in creating a presumption against government intervention. However, it is not a substitute for distinguishing those situations in which the government must provide the benefits unavailable from competition from those situations in which the government's presence would merely protect incumbents and prevent the price mechanism from allocating resources to their best use.

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Inventing race

JOHN D. SKRENTNY

OUR seemingly endless debate about the justice of affirmative action has kept a related and increasingly important issue off the national agenda: If we are to have affirmative action, which groups should be included? Americans almost always debate affirmative action as if African Americans were the only beneficiary. The logic behind this assumption has been that this group has experienced uniquely severe oppression and disadvantage, and was the original intended beneficiary of affirmative action and of the civil rights laws introduced in the 1960s.

But almost from the beginning of the affirmative-action era, the federal government included other ethnic and racial groups in its regulations. In the late 1960s, these regulations established what would become, with some adjustment, America's "official minorities": blacks, Latinos, Asian Americans, and American Indians. These are the groups included in federal employment affirmative action and set-asides for businesses, as well as affirmative action in university admissions,

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though Asian Americans have been dropped from the affirmative-action admissions programs of most colleges and medical schools on account of their high representation.

The scope of affirmative action is a matter of some importance. The question of how many and which groups are classified as victims, or as different enough from mainstream whites to contribute to "diversity," is what political scientist Steven Teles calls a "regime-level issue"—an issue that touches on "basic issues of citizenship and social system maintenance" and American national identity. Second, immigration is drastically changing the shape of affirmative action. National policy now allows nearly one million immigrants into the United States every year, and more than three-quarters of them are Latinos and Asians who would be eligible for affirmative action. The 2000 census confirmed that Latinos alone already outnumber blacks in the United States.

As the historian Hugh Davis Graham has argued, the unintended convergence of immigration policy and affirmative action has led to conflicts. These have mostly occurred among the "official minorities" themselves, as when Latinos use affirmative action to make inroads into areas like government employment where blacks predominate. The sociologist Orlando Patterson has called for the exclusion from affirmative action of all Asian Americans except Chinese Americans descended from pre-1923 immigrants, the exclusion of all Hispanics except for Puerto Ricans and second generation or later Mexican Americans, and the exclusion of immigrants from Africa and the Caribbean.

Patterson's effort to narrow the scope of affirmative action raises difficult questions: If affirmative action is not only for the descendants of American slaves, then what threshold of past (or present) suffering should serve as the dividing line? And once that line is drawn, is it right to offer the included groups equal help? Should religious differences be completely ignored, as they are now? Do white ethnic groups, such as Italians, Jews, and Poles, as well as Iranians and other Middle Easterners, encounter discrimination, or have they already achieved equal representation? Do these groups contribute to diversity?

Though there is little public debate about these subjects,

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the courts have begun to show concern about the criteria for inclusion in affirmative-action policies. Some programs have been struck down for being overly broad. It appears that both defenders of affirmative action and its critics will have to pay more attention to who is included in affirmative action and why.

But the historical record of affirmative-action policy making offers astonishingly little guidance for what to do today. Scarcely any study went into deciding which groups would be considered "minorities" and would be eligible for affirmative action. Instead, this is a story of some quiet lobbying, and of policy making based on the largely unquestioned assumption that certain groups were in some unspecified way analogous to blacks. The nonblack groups involved were at the time small, the problems of black America very large, and few paid attention as American society was classified in an entirely novel way. Over the years, and with an equal absence of thought, these classifications became entrenched in government and university policies. Now this strange lack of attention to fundamental questions may lead to affirmative action's undoing.

Early minority designations

The practice of identifying certain groups as "minorities" in need of government attention began before the advent of affirmative action. America's first federal equal-employment agency was President Franklin Roosevelt's 1941-45 Fair Employment Practices Commission (FEPC). This commission, which oversaw employment in the federal government and the war industries, was created after black civil rights leader A. Philip Randolph threatened a massive march on Washington to protest black exclusion from defense industry jobs. The purpose of the FEPC, a weak organization without strong leadership, was to investigate complaints of job discrimination on the basis of race, national origin, or religion. As the economist Glenn Loury, among others, has pointed out, there can be no truly color-blind anti-discrimination policy, since any civil rights investigative body will inquire into how others of a reference group were treated when examining a specific complaint of discrimination. Still, the FEPC was about as close to color-blind as is possible. Its agenda was driven by the complaints

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that came before it; those came mostly from blacks.

Congress killed the FEPC at the end of the war, but President Truman and northern Democrats made repeated attempts to revive it. In 1947, Truman created a President's Committee on Civil Rights to publicize the problem of discrimination, and in its report one can see the beginnings of a federal policy focused on what have now become our official minorities. The report argued that ethnic and racial groups with distinguishable physical characteristics (specifically, blacks, Mexican Americans, "Orientals," and American Indians) suffered worse prejudice than others. There were brief mentions of anti-Semitism, discrimination against Jehovah's Witnesses, and a medical school official who refused to admit Irish Catholics, but otherwise, blacks, Hispanics, Asians, and Indians dominated the discussion. It was a remarkable display of amnesia, as recently severe and still prevailing discrimination against Italians, Poles, and other eastern and southern Europeans was completely ignored, as were the many Mexican Americans who are white.

This high-profile report generated substantial publicity. Through his executive power, Truman followed by creating his own version of the FEPC, which, like that office, oversaw nondiscrimination in companies with government contracts. It was Eisenhower's successor version, the President's Committee on Government Contracts (PCGC), that first implicitly identified "official minorities" as part of a civil rights program. Research that Harold Orlans, formerly of the U.S. Commission on Civil Rights, and his assistant Philip Lyons conducted in 1985 and 1986 first revealed this obscure but important series of events.

In 1956, under Vice President Richard M. Nixon's charge, the PCGC began to search for a way to better assess the extent and concentration of black employment. The committee surveyed contractors about their "Negro," "other minority," and "total" employees. If there were many "other minority" employees, the survey regulations added that "the contractor may be able to furnish employment statistics for such groups," which included "Spanish-Americans, Orientals, Indians, Jews, Puerto Ricans, etc." Except for the inclusion of Jews, the enigmatic "etc.," and the unexplained separation of Puerto

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Ricans from the very broad "Spanish-Americans" category, the administrators had set demarcations for minorityhood that would last for the rest of the century and beyond.

By including "etc.," these administrators displayed a certain open-mindedness about which groups might suffer discrimination in the United States. However, by relegating all minorities except blacks into the "other" category, they further established the principle—in apparent contradiction to nondiscrimination law, if not logic—that the problems of blacks should be given primary attention. Noticing the hierarchy, some Mexican-American groups demanded that they be promoted from "other minorities" and placed on every form along with blacks. The League of United Latin American Citizens (or LULAC, a mostly Mexican-American group), the GI Forum (a group of Mexican-American veterans), the Mexican-American Political Action Committee, and Alienza, a group based in Arizona, argued that Mexican Americans had suffered discrimination on par with blacks. They recruited help from Mexican-American congressmen Edward Roybal, Henry Gonzales, and Joseph Montoya. The claim that Mexican Americans suffered equal discrimination apparently was plausible to PCGC administrators, and they elevated "Spanish-Americans" to the standard form.

Similar efforts by advocates for Japanese and Chinese Americans subsequently resulted in the elevation of the entire category of "Orientals." The Japanese American Citizens League had demanded that Japanese Americans be explicitly included in nondiscrimination guarantees even before World War II began. When Hawaii became a state in 1959, its congressional representatives, Senator Hiram L. Fong and Representative Daniel K. Inouye, supported inclusion of a category for Orientals. In response, David Mann, the director of surveys for the PCGC (as well as for Kennedy's replacement for that office, the President's Committee on Equal Employment Opportunity, or PCEEO), added the ambiguous "Oriental" category. Mann added American Indians to the form as well, though Indian advocates had not lobbied for inclusion. Mann believed, he later recalled, that they suffered discrimination and were sunk in a "woeful economic state." On the other hand, Jews had done relatively well economically, and black

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groups objected to their inclusion. Jewish groups did not press the matter, and the PCGC removed them from the form.

Though the categories were blunt and unscientific, in Mann's view they had the virtue of simplicity. Thus, through a process driven by a vague analogy between certain other ethnic groups and blacks, concern for administrative simplicity, and some behind-the-scenes lobbying, America's official minorities were established.

The making of America's official minorities

Though its survey forms served to establish certain groups as the officially recognized victims of social prejudice, the PCGC and Kennedy's PCEEO had little power to enforce anti-discrimination laws and little impact on American society. Full institutionalization of minority status came only after the Civil Rights Act of 1964 created the Equal Employment Opportunity Commission (EEOC). Like their predecessors, the overworked administrators of this poorly funded agency sought some way to map the contours of employment and discrimination in America. The PCGC's prototype form provided a model for what became the EEOC's "EEO-1" form. Rutgers University labor-law specialist Alfred Blumrosen, a major architect of America's contemporary discrimination law, wrote in his 1971 book *Black Employment and the Law* that he wanted to use the EEO-1 as a "sociological radar" to direct the EEOC's limited resources to the sources of the most significant discrimination, concentrating on certain geographical areas and specific industries within them. For the first time, the official minority designations became the basis for positive government action.

Concentrating first on the plight of black Americans, the EEOC held hearings with industry representatives and asked them to explain why they hired few or no blacks. By 1968, the EEOC was devoting attention to other categories on the EEO-1. For example, a hearing on white-collar employment in New York City examined the employment of blacks, Puerto Ricans, and women of all ethnicities. Later hearings in the West and Southwest and other EEOC efforts also addressed Latinos, American Indians, and, to a lesser extent, Asian Americans.

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While not explicitly recommending "affirmative action," the EEOC made companies aware that the proportions of the *government-designated minorities in their work force would* matter. Further, any African American, Latino, Asian American, or Native American could bring a complaint to the EEOC or a lawsuit to court and buttress the complaint with statistics showing the proportions of these groups hired for different kinds of jobs. No other male Americans could do so.

Meanwhile, the Labor Department's new Office of Federal Contract Compliance was creating the affirmative-action regulations that we know today. At the urging of Assistant Secretary Arthur Fletcher, and with the support of Secretary George Schultz and President Nixon, the OFCC instituted the "Philadelphia Plan," designed to bring blacks into the construction industry. It pursued this goal by having firms promise to achieve percentage ranges of minority hiring "goals" in specific occupations according to a predetermined timetable.

Though women were covered by the executive order that authorized the Philadelphia Plan, the plan itself did not include women. It did, however, include the official racial minorities. A memo to the "Heads of All Agencies" justified the OFCC's action by citing the underutilization of Negro workers in seven skilled construction trades: iron workers, plumbers and pipe fitters, steamfitters, sheetmetal workers, electrical workers, roofers and water proofers, and elevator construction workers. African Americans constituted less than 0.5 percent of workers in these trades in the Philadelphia area. Though it only discussed the situation of African-American workers, the plan required that bids for contracts include "specific goals of minority manpower utilization." "Minority" followed the EEOC definition: "Negro, Oriental, American Indian and Spanish Surnamed American." This last category included "all persons of Mexican American, Puerto Rican, Cuban or Spanish origin or ancestry."

The original Philadelphia Plan thus nominally included the EEOC's "official minorities" but emphasized African Americans. A broader approach followed. Three months later, the OFCC's next order gave details on implementation of the plan. This order did not mention African Americans separately from

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the other groups and gave aggregate statistics only for "minorities." Without any debate, lobbying, or protest that I have been able to discover, affirmative action in the contract-compliance program thus expanded to include the racial minorities specified in the EEO-1. Though Nixon weakened use of the Philadelphia Plan in the construction industry—which strongly resisted integration—the OFCC expanded the plan's basic affirmative-action model to other businesses with federal contracts worth at least $50,000.

Minority capitalism

Affirmative action expanded from employment to other economic areas at nearly the same time, as the government began to develop programs to aid black business owners. In this arena, as in employment affirmative action, these efforts soon swelled to include other minority groups—specifically, the "minorities" of the EEO-1. There was a tendency to drop Asian Americans from the programs, though the reasons for this are obscure—there is no public record of discussion of the matter. As before, it appears that this policy was guided by an assumption that Latinos and American Indians were in a situation similar to that of blacks.

Affirmative action received a boost during the presidential campaign of 1968. Hubert Humphrey's assistant, William Welsh, assembled a report on March 26, 1968 entitled "A National Program for Promoting Minority Entrepreneurs." Welsh did not discuss the potential political benefits of the program, but explained that the programs were appropriate "because they are right and just" and "because all Americans are entitled to participate in all vital aspects of our nation's life." "More pragmatically," he explained, "the harnessing of the energies of all parts of our society can substantially improve the economy." Riot prevention was an additional justification: "Furthermore, we must move forward in this area because economic control is one of the critical issues underlying tension in our ghettoes." Welsh defined minority to include "Negroes, Spanish-speaking Americans, and Indians." By 1968, the Office of Economic Opportunity had created small business-development centers in ghettoes; the Department of Commerce

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had an affirmative-action program to obtain franchises for minority persons; and the Small Business Administration (SBA) had special contract set-asides and counseling for minority-owned small businesses. Humphrey's opponent, Richard Nixon, began to promote a similar preferential program—what he explicitly called "black capitalism"—to help African-American entrepreneurs.

Nixon won the election, and on March 5, 1969, he issued Executive Order 11458, which created the Office of Minority Business Enterprise (OMBE). Like the other early affirmative-action programs for minority capitalists, OMBE developed without a clear-cut antidiscrimination rationale. Simply giving more opportunities for designated underrepresented groups was the goal. As historian Dean Kotlowski has shown, Nixon framed the program in his personal notes as a way to bring "dignity, pride, self-respect" to blacks. And it promised votes for the Republicans, at least among the 20 percent (Nixon's estimation) of the black vote that was middle class.

How and why Nixon became convinced that the program should be broadened from its original purpose of promoting "black capitalism" is not clear, but it appears that there was no analysis, debate, lobbying, or protest involved. It happened very early in 1969. Secretary of Commerce Maurice Stans later sent a memo explaining the expansion to Nixon's chief domestic policy aide John Ehrlichman. That memo simply stated, "In view of the existence of the other significant minorities, the program was given the title of Minority Enterprise and the other ethnic groups were brought into it."

In an interview two decades later, Stans attributed the expansion of the OMBE's mission to his desire to bring the program in line with earlier designations of "official minorities." He recalled a meeting with Nixon in which he explained that

> we have to enlarge the scope of this, because there are more than blacks involved; there are four ethnic groupings of people in the United States that are considered by the Congress to be minorities: blacks, Hispanics, Asians, and American Indians. I'd like to wrap them all together into one program and call it "Minority Business."

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It is unclear exactly what congressional designation Stans was referring to, and it is likely his memory was faulty—Congress was on the sidelines of affirmative-action policy during these early years. But there appears to have been no White House debate on the matter; according to Stans, Nixon agreed to the change without discussion: "All right; let's do it that way."

Of these minority groups, the Nixon administration gave special attention to Mexican Americans, whom they perceived to be a potential source of votes in key states. The administration's efforts were so zealous, in fact, that it was criticized by the congressional Watergate committee. The committee's investigation uncovered a Nixon program that helped pro-Nixon Latino businesses in key electoral states, while withholding funds from minorities who were Nixon opponents.

OMBE eventually merged with the SBA set-aside programs. Beginning in 1977, Congress buttressed these executive efforts with various set-asides for the minorities specified by the EEO-1 in appropriation bills. There was no debate on whether or not to expand or contract this list. The rationale for the inclusion of these groups appears again to have been self-evident to everyone involved. The policy was defended on the basis not of antidiscrimination but rather of underrepresentation—some members of Congress noted that only 1 percent of federal contracts went to minority firms.

Led by Maryland Democrat Parren Mitchell, Congress acted in 1978 to give the SBA program a statutory basis in the Small Business Investment Act. The law organized participation in SBA programs based on "social and economic disadvantage." The law presumed that businesses owned by blacks, Latinos, and American Indians were socially and economically disadvantaged; therefore, they automatically qualified for preferential treatment. Businesses owned by other Americans could qualify only if they produced studies and evidence showing that their group had suffered prejudice, bias, and discrimination, that these conditions led to economic deprivation similar to that experienced by the official minorities, and that these conditions produced significant barriers in business.

As University of Maryland political scientists George La

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Noue and John Sullivan have pointed out, Mitchell had not included either American Indians or Asian Americans in the original bill. The Conference Committee added American Indians, but no one appears to have noticed (or cared) that Asian Americans had been dropped from the official minorities. Mitchell later said the omission was "inadvertent."[1] Asian groups, however, immediately lobbied the SBA, and the SBA responded by adding the category of Asian-Pacific Americans.

This category specifically included citizens from Cambodia, China, Guam, Japan, Korea, Laos, the Northern Marianas, the Philippines, Samoa, Taiwan, the U.S. Trust Territory of the Pacific, and Vietnam. And it had more room to grow: From 1982 to 1989, the SBA added persons with ancestry from India, Tonga, Sri Lanka, Indonesia, the Marshall Islands, Micronesia, Nepal, and Bhutan to the list, though it rejected Hasidic Jews, women, disabled veterans, Iranians, and Afghans. In an analysis of the petitions from members of these groups and SBA decisions, La Noue and Sullivan found that the process of designating presumptively disadvantaged groups was messy and inconsistent. They concluded that the SBA, consciously or unconsciously, employed a rule granting "people of color" preferential treatment, though neither the law nor their guidelines stated that skin color was a determining factor. The SBA did not tackle the knotty issue of whether Hispanics, many of whom thought of themselves as white, should be considered "people of color," nor did they define how much "color" ancestry one must have to be considered a member of a disadvantaged minority. At any rate, by 1995 nonblack minorities were well represented in the SBA program. As Hugh Davis Graham has shown, these nonblack designations mattered—of the 6,002 firms participating in what had become a $5.8 billion program, blacks received 47 percent of the funds, Latinos received 25 percent, Asians 21 percent, Native Ameri-

[1] Nixon had left out Asians in one of his executive orders as well. In Executive Order 11625, issued on October 13, 1971, Nixon did some reorganizing and shuffling in the minority-capitalism program. He also defined a "minority business enterprise" as one that is "owned or controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic [*sic*] economic circumstances as background or other similar causes." This included, but was not limited to, "Negroes, Puerto Ricans, Spanish-speaking Americans, American Indians, Eskimos and Aleuts."

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cans 6 percent, and "other" received 1 percent.

Affirmative admissions

The origins of the categories included in university affirmative-action admissions programs are harder to determine, as these were not directed by federal policy. Affirmative action in university admissions was in part a response to black violence in the nation's cities and to black protest on campuses. Campus protest by Latino, American-Indian, and Asian groups, who sometimes joined the blacks as "third world peoples," was very minor, but these groups were included in most programs anyway. In this climate of crisis, universities—whether they were the sites of protest or not—suddenly awakened to the problems of social discrimination, lack of diversity, and underrepresentation. They decided to reach out to blacks and the other "official minorities" and to try to integrate them into mainstream society.

Newsweek casually reported in 1969 that "in recent years the trend at both the sought-after liberal-arts schools in the Northeast and the multiversities of the Midwest and Far West has been to seek more black students as well as bright, socially committed white students." *Newsweek* neglected to mention that most universities pursued not only blacks but other minorities. By the early 1970s, everyone "knew" who America's minorities were, and except for cases of obvious Asian-American overrepresentation, undergraduate affirmative-action admission programs included the same groups as employment and small business affirmative-action programs.

The efforts of professional schools to increase minority representation were also primarily a response to the problems of black Americans. In 1968, the American Association of Medical Colleges (AAMC) advised that "medical schools must admit increased numbers of students from geographical areas, economic backgrounds and ethnic groups that are now inadequately represented." Despite this expansive language, the following year the AAMC specified a more limited goal: Twelve percent of first-year medical school classes should be black by the 1975-76 academic year. More than 100 schools responded to the recommendation by setting up programs to make it easier for black students to get into medical school. In 1970,

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the AAMC expanded the targeted population but, curiously, kept the percentage the same: The 12 percent should include blacks, Mexican Americans, Puerto Ricans, and American Indians (Asian Americans were left out).

In 1968, the Association of American Law Schools, the American Bar Association, the National Bar Association (an organization of black lawyers), the Law School Admissions Council, and the federal Department of Health, Education, and Welfare formed the Council on Legal Education Opportunity to improve the chances for "members of disadvantaged groups" of attending law school. The Council recruited students from these groups, promoted pre-law summer schools, and offered special financial aid and stipends. Despite the color-blind language, the program chose students from groups designated as disadvantaged minorities in earlier government documents—that is, the "official minorities" (though it is not clear if Asians were included). Many of these students gained admission to law schools through some relaxing of prevailing standards. "The overwhelming majority of these students," explained one of the program's organizers to a congressional subcommittee, "have been minority students from various racial and ethnic backgrounds."

Several survey studies document the spread of affirmative action in admissions at professional schools and the expansion from blacks to other racial minorities. A U.S. Commission on Civil Rights study found that by 1970, two-thirds of all medical schools and one-half of all law schools had some affirmative-admissions program. *The Journal of Medical Education* reported that by 1974 all 90 medical schools had programs to increase minority representation. In 1968, 62 percent of the schools targeted only blacks, but in 1974, only 6 percent targeted blacks exclusively. Surprisingly, Native Americans were the group next-best represented in the programs, as the percentage of schools including them increased from 9 percent in 1968 to 93 percent in 1974. Other groups also saw a rapid rise in their fortunes: The percentage of schools including Mexican Americans in their programs increased from 16 percent to 89 percent, and the percentage including Puerto Ricans rose from 8 percent to 76 percent. Asian Americans, for whom there was no data in 1968, were included in 33 percent of the

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plans. Law schools followed suit, with 81 percent of them including Asian Americans.

Evidence thus suggests that medical schools did not simply copy the groups from the EEO-1 form; however, they did not go beyond those groups. They borrowed the existing affirmative-action model, dropping Asian Americans when this group was "overrepresented." There was no discussion of whether some white ethnicities were not proportionally represented or whether that mattered.

University elites had clearly been persuaded of the desirability of reaching out to minority groups, and with zeal and creativity they developed reasons why it was a good idea. Yet their views on both counts were limited by the government's approach to affirmative action. All minorities were seen as equally disadvantaged, the mixture of ethnicities within a minority category did not matter or mattered far less than race, there were no mixed-race persons, and all "whites" were the same—"socially and ethnically homogeneous," as one Supreme Court brief put it. Persons of British, Italian, Arab, Armenian, Greek, and Polish ancestry were understood to be essentially similar in their histories, viewpoints, and experience with past discrimination, and none of these groups were thought to contribute anything meaningful to the educational experience of diversity. Distinctions between Protestants, Catholics, and Jews were ignored as well.

Who was left out?

Representatives from certain white ethnic groups protested the direction of affirmative-action policy. In 1967, Vincent Trapani, the head of a New York Italian-American organization, complained to the EEOC that its EEO-1 form violated the Civil Rights Act by specifying only four minority groups and demanded that it be revised or eliminated. In 1968, the Jewish Labor Committee argued that Jews should be included on the EEO-1 form, and the Anti-Defamation League conducted studies of Jewish employment in New York. Jews received some attention at the EEOC's hearings on white-collar employment in New York City, but they never gained the status of "official minorities."

Polish-American leaders were the most active, especially

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the Polish American Congress (PAC) lawyer Leonard Walentynowicz. Upset by the popularity of "Polish jokes," and resentful that Poles were frozen out of top positions in society while simultaneously being blamed for keeping blacks down, the PAC lobbied the EEOC, the OFCC, and the U.S. Commission on Civil Rights for attention. Poles and Italians also joined forces in Chicago to produce studies that showed underrepresentation of these groups in executive and government positions.

These groups had some allies in Congress, including Democratic congressmen Roman Pucinski of Chicago and Mario Biaggi of New York. New York senator James Buckeley complained that the OFCC's primary affirmative-action regulation used the word "minority" more than 65 times without ever defining it.

But except for an OFCC proposal that firms with government contracts remedy underutilization of Catholics, Jews, and eastern and southern Europeans—a plan that was rejected by the Nixon White House—civil rights agencies mostly brushed off these efforts. They and administration aides stated that adding more groups would be too burdensome to businesses, that preferences for Catholics and Jews would violate the Constitution by giving preference to certain religions, and that it was harder to determine who was Italian and Jewish and Polish than it was to determine who was black. But their principal argument, stated but never elaborated, was that these groups had not suffered as much as blacks had. These rebuffs invariably avoided the more difficult comparisons among and between white ethnics (and, later, Middle Eastern groups), Latinos (50 percent of whom say they are white), Asian Americans (wealthier and more educated on average than almost any white ethnicity), and American Indians (who show very high rates of intermarriage).

Affirmative action on the ropes

Affirmative-action policy separates government-designated minorities from other Americans through an undefined standard of victimhood. The logic of the policy is based on an unexamined assumption equating black Americans with Latinos, Asian Americans (sometimes), and American Indians.

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This probably makes sense to most Americans. Some of these groups can lay claim to unique experiences with state-sanctioned oppression, discrimination, and segregation that white ethnics, Jews, and Arab or Middle-Eastern Americans cannot. Why, then, should we care that these latter minorities are not included in affirmative-action programs, while so-called "people of color" are? I offered two answers at the outset of this essay: first, that these policies make permanent victims of the included populations; and second, that high immigration levels among Hispanics and Asians have dramatically transformed affirmative affirmation, bringing it far from its original goals. In closing, I offer another: If affirmative action is dismantled on a national basis, the policy's over- or underinclusiveness will likely be the reason.

The lack of any specification, analysis, or clear rationale for official minority status has troubled the courts in ways that it has not troubled legislators. In the famous reverse-discrimination case *Regents of the University of California v. Bakke (1978)*, the plaintiff challenged the Medical School of the University of California at Davis's affirmative-action plan, which gave preferences to the EEO-1's four minority groups even though Asians did well enough not to need the preferences. Leonard Walentynowicz, writing for various Polish-American groups, composed a blistering amicus brief that complained of the lack of clear basis for minority-group selection and charged a violation of due process. The brief also argued that if protections were to be given, they should go to all groups experiencing discrimination, and such a decision should not be made simply because a group is more vocal, or better organized, or because of the emotions of the day. It should be made by an open political process in which public confidence can be secured and divisiveness avoided.

Few justices or legal analysts took note of the problem of affirmative action's scope (Justice Thurgood Marshall, for instance, discussed only blacks in his opinion). Justice Lewis Powell, however, took Walentynowicz's argument seriously. In his opinion in the *Bakke* case, Powell chose to embrace the "diversity" rationale for affirmative action precisely because it avoided the question of which groups had suffered sufficient discrimination to warrant preferential treatment—any

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underrepresented group could add to the diversity of a student body. Powell wrote:

> There is no principled basis for deciding which groups would merit "heightened judicial solicitude" and which would not. Courts would be asked to evaluate the extent of the prejudice and consequent harm suffered by various minority groups. Those whose societal injury is thought to exceed some arbitrary level of tolerability then would be entitled to preferential classifications at the expense of other groups.

Powell suggested that a constitutional "diversity" preference might, in some circumstances, offer preference to an Italian American.

It has taken two decades for Powell's warning to come to pass. When Americans criticize affirmative-action programs, they generally make their case against preferences for blacks, the group which, arguably, needs them most. But the adoption of strict scrutiny as a standard of judicial review for public affirmative-action programs has led to increased examination of affirmative action's inclusiveness. Many judges have begun to demand a clearer rationale for racially based preferences. Some of them are less sympathetic to affirmative action than was Powell; applying the strict scrutiny standard, they demand that affirmative action be narrowly tailored to achieve a compelling government purpose. In 1989, in the case of *City of Richmond v. J. A. Croson*, the Supreme Court struck down Richmond, Virginia's set-aside program for its lack of a clear rationale. Richmond included nonblack minorities without providing any evidence of past discrimination against these groups, and even included Eskimos in its American-Indian category despite the absence of Eskimos in the city's population. More than a decade has passed since this decision, and there is still no widely accepted and coherent theory to justify why some groups should be included in affirmative action while others should not. The continuing confusion over the scope of affirmative action weakens a policy that may still be very important for black Americans.

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Inventing racism

G. E. ZURIFF

RACIAL prejudice in the United States has decreased dramatically over the past five decades, especially so since the passage of the Civil Rights Act in 1964. Surveys show ever-increasing, majority support for racial equality, desegregation, and nondiscrimination, accompanied by a large decrease in personal animosity directed toward African Americans. Nationwide studies have similarly documented significant declines in expressions of prejudice, negative stereotyping, and resistance to equality by whites. Egalitarian public policies have been implemented on a wide scale. On the subjects of voting rights, schools, public accommodations, housing, and employment, segregationist sentiment has all but disappeared. At the same time, numerous measures show a significant improvement in the social and economic conditions of African Americans. Despite lingering traces of racial prejudice, America has become, in principle at least, racially egalitarian. This is a momentous change.

Nevertheless, charges of systematic racism continue to fill

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the media. The existence of white racism is still used to justify sensitivity training, diversity consultants, and multicultural workshops. Civil rights activists continue to base their demands for affirmative action, school busing, and other racially targeted measures on the need to counter racism. Many academics still blame racism for every disparity between whites and blacks, including statistical evidence of differences in crime, illegitimacy, drug use, SAT scores, income, school graduation rates, and employment.

This paradox of a constant appeal to racism in the context of a precipitous decline in racism is in part a consequence of a dilution of the meaning of racism for which social scientists are largely responsible. Historically, racism has been viewed as a set of negative feelings, beliefs, and actions directed against minority races, especially African Americans. Racism was understood as feelings of contempt, disgust, hostility, and hatred toward blacks and a belief that blacks were inherently inferior to whites, possessing a number of stereotyped negative traits such as laziness, criminality, low intelligence, and impulsiveness. Racist actions ranged from job discrimination to segregation to physical abuse. Social scientists traditionally measured the prevalence of racism through surveys and questionnaires. Typical of the questions asked were:

- "How strongly would you object if a member of your family had a friendship with a black?"
- "Do you feel blacks are smarter, not as smart, or about as smart as whites?"
- "Do you favor full racial integration, integration in some areas of life, or full separation of the races?"

Clearly, these questions tap into the kinds of negative feelings, beliefs, and actions characteristic of racism. Over the past two decades, however, problems arose for researchers as fewer and fewer people expressed racist attitudes in surveys. While some scholars believed the lower survey scores reflected a genuine decrease and, indeed, near disappearance of racism in America, others argued that because of changing social morals, racists were simply too embarrassed to reveal their true sentiments when responding to questionnaires. This group

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theorized that racism had not died but had simply gone underground and evolved into new forms. As a result, they have devoted themselves to devising innovative methods for uncovering racists, both old-fashioned racists who deliberately conceal their hatred of blacks for fear of being ostracized, and a new breed of racists whose racism is buried deep in their unconscious.

The scholars committed to this task include an influential group of experimental social psychologists. Because they believed that contemporary racism could not be measured using traditional methods, these social psychologists developed new techniques for defining and measuring racism. Rather than simply canvassing people to learn their attitudes, they performed experiments on volunteer subjects with the aim of unearthing attitudes that are concealed or unconscious. Not only have they found racism to be pervasive in American society, they have found it in phenomena never before thought to reflect it. The three new forms of racism they have identified, "modern racism," "aversive racism," and "implicit stereotypes," all depart from traditional understandings of racism, finding it not in overt actions or expressions but in political opinion, social evaluations, word associations, and minute gestures.

Modern racism

The group of scholars that pioneered this new approach to racism centered around U.C.L.A. social psychologist David Sears and his political-scientist colleagues John McConahay and Donald Kinder. In the early 1970s, these men studied the voting behavior of whites in elections in which African-American candidates were running or in which the campaign issues were racially relevant (e.g., school busing). In a 1981 article in the *Journal of Personality and Social Psychology*, they reported their discovery of high levels of "symbolic racism," later also known as "modern racism," which they defined as "a blend of antiblack affect and the kind of traditional American moral values embodied in the Protestant Ethic." This racism was "a form of resistance to change in the racial status quo based on moral feelings that blacks violate such traditional American values" as individualism, equality of opportunity, self-reliance, thrift, punctuality, delay of gratification, obedience,

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and discipline. This new form of racism has been called "symbolic" because, it is claimed, racist opposition to such policies as racial preferences, busing, and welfare is masked by arguments based on these universal, non-racial principles.

According to this group of social psychologists, the anti-black feelings of "modern racism" are acquired early in life, without deliberate reflection, and are an inevitable product of growing up white in our society. For many whites, these negative feelings are unconscious, and they would firmly deny possessing racist sentiments. Modern racists rationalize their anti-black feelings in terms of traditional values, and can thereby express them without fear of social embarrassment. For example, modern racists who vote for a white candidate rather than a black one may sincerely deny any racial prejudice, justifying their vote on the basis of the candidate's traditionalist platform.

In support of their theory, Sears and his colleagues have shown that voting patterns in elections in which race or racial issues are salient can be shown to correlate with voter scores on the modern-racism scale, a quantitative scale based on a new questionnaire designed to measure racial attitudes. In fact, the modern-racism scale has emerged as the principal method of measuring racism used by experimental social scientists today, forming the basis of 11 studies in the year 2000 alone. For example, James Rada used the scale in a study of racism in television news and its subsequent effects on white viewers. Kimberly Dean studied the effects of racism, as measured by the modern-racism scale, on simulated jury panels in criminal trials, and Arthur Brief investigated how modern racism affects discrimination in hiring.

At first blush, the modern-racism thesis appears revolutionary. For many years, opposition to programs intended to advance the cause of minorities in the United States (e.g., school busing, affirmative action, welfare) has been defended on the grounds of abstract principles such as equal opportunity and individualism. Yet modern-racism theory tells us that these principled justifications in fact express an unconscious racism. Not only are the motives of those who oppose these programs thus impugned as racist, but the prevalence of racism is discovered to exceed all previous estimates. However, a close

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scrutiny of the research behind modern-racism theory reveals that what is astounding is not these researchers' findings but rather the manner in which they arrived at their conclusions.

Questionable social science

In modern-racism studies, subjects are first given a questionnaire, usually in the form of a set of statements (each of which may or may not be, in the view of the researcher, "racist" statements) and are asked to indicate on a numeric scale—often one to five—the degree to which they agree or disagree. A subject's modern-racism score is then calculated by adding together the number of "racist" responses weighted by the degree of agreement or disagreement. In this way, researchers construct a modern-racism scale, with each subject's score falling somewhere along the continuum from very low to very high modern racism.

An unbiased look at the questionnaire statements quickly reveals the underlying assumptions of modern-racism theory. Some of the statements are like this one: "Over the past few years, the government and news media have shown more respect for blacks than they deserve."

Although this item does not demonstrate the animosity of "old-fashioned racism," it still suggests a certain dislike for blacks. However, an examination of many of the other items is disconcerting: "blacks have it better than they ever had it before"; "blacks are getting too demanding in their push for equal rights"; "blacks who receive money from welfare programs could get along without if they tried." If you strongly agree with the (doubtless true) statement that the economic and social status of blacks is better today than it was in the past, or if you oppose programs such as school busing or affirmative action and as a result believe that advocates of these programs are demanding too much, or if you think that many people on welfare could find jobs if welfare were cut off (as has been happening in many states since welfare reform), then you will score high in modern racism.

Even more dubious is the inclusion of the following two items in a 1986 version of the questionnaire devised by McConahay: "Are you in favor of or opposed to the busing of children to achieve racial desegregation of the public schools?"

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"It is wrong to set up quotas to admit black students to college who don't meet the usual standards." By his scale, the more strongly you oppose school busing and racial quotas for college admission, the more racist you are by definition. Opposition to school busing and racial quotas is not treated as a stance that may be explained by racism—opposition to busing and racial quotas *in itself* constitutes racism. But on what grounds do these researchers believe that a particular position on these political issues indicates racism? They give none. In fact, modern-racism scores do not correlate strongly with traditional measures of old-fashioned racism.

To see more clearly how modern-racism theory works, consider one recent study. In *Cultural Divides: Understanding and Overcoming Group Conflict*, published in 1999 by the Russell Sage Foundation, Sears and his colleagues purported to show, among other things, that modern racism has a strong effect on white attitudes toward affirmative action. Whites were asked for their views on affirmative action, and they were also asked three questions:

- "Should blacks work their way up without special favors?"
- "Are blacks too demanding in their push for equal rights?"
- "Do blacks get more attention from the government than they deserve?"

Let's suppose you tell the interviewer that you strongly oppose group entitlements and racial preferences in hiring and college admissions. Although not a logical necessity, it would be consistent with your position to answer "yes" to the first question, because "special favors" for blacks suggest group entitlements and preferences. Furthermore, although the connection is not explicit, you very likely may take the second question in the context of group entitlements and racial preferences and thus answer "yes" to this as well. You might go either way on the last question, depending on how you interpret "attention." If you interpret it as referring to programs you consider unfair and contrary to the principles of equal opportunity and individualism, you might indeed conclude that

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blacks get more attention from the government than they deserve. In any event, it is already too late. Your first two answers have earned you a high score on the three-item questionnaire, and the researchers have found their correlation between high scores on the three-item questionnaire and opposition to affirmative action.

It is bad enough that this section of the study is nearly tautological, since people who oppose affirmative action are also likely to oppose "special favors" (e. g., affirmative action). Worse is the researchers' claim that the three-item questionnaire measures racism, and their subsequent conclusion that racism underlies opposition to affirmative action.

The reconceptualization of racism at the heart of modern-racism theory has profound implications. It has significantly lowered the bar for racism, and as a result, the proportion of people thought to be racist has dramatically increased. Those who before would not have been considered racist are now assigned that label by virtue of their political principles. Modern-racism theory works to discredit opposition to race-based government programs, as objections to school busing, racial preference in hiring, or welfare can now be dismissed as mere camouflage for underlying racism. Even though the theory acknowledges that the "modern racist" is different from the "old-fashioned racist," the use of the inflammatory term "racist" inevitably leads the public to believe that modern racists share the bigoted feelings, beliefs, and behaviors of old-fashioned racists.

In addition, modern-racism theory seems designed to ensure racism's longevity. Modern racism is said to be acquired in childhood as an inevitable consequence of growing up white in America. Its existence cannot be refuted despite its apparent invisibility because it resides in the unconscious mind. And it is guaranteed to exist as long as there is any dissent from programs said to promote racial equality. Even if our society were ever to reach a consensus, one way or the other, on our contemporary programs, we can be sure that modern racism would still exist. As McConahay tells us: "It is expected that new items will have to be generated for the modern racism scale as new issues emerge in American race relations and some of the current items become more reactive."

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Aversive racism

Conservatives are the group most likely to express the political and ideological positions qualifying as racist under the modern-racism scale. However, another set of social psychologists have designed a scale that uncovers racism especially among liberals. This new concept of racism, known as "aversive racism," was developed by the social psychologists John Dovidio and Samuel Gaertner and now plays a major role in contemporary research on race relations.

Aversive-racism studies are said to detect racist attitudes among whites who sincerely endorse egalitarian values, regard themselves as nonprejudiced, and support public policies promoting racial equality. Aversive racism differs from traditional racism in a number of ways. Instead of feelings of hostility or hate, the aversive racist is said to experience a mild uneasiness, discomfort, or fear around blacks. Rather than think they are inherently superior to blacks, aversive racists instead believe themselves to be culturally advantaged as a result of the effects of past racism. While aversive racists do not act in ways that directly harm blacks, they tend to avoid them.

Like modern racism, aversive racism is claimed to be the almost inevitable result of growing up white in America. Because racism is in conflict with the aversive racist's egalitarian self-image, aversive racists cannot acknowledge their racist attitudes, even to themselves. These attitudes are expressed only in ambiguous situations in which they can be rationalized on nonracial grounds and so need never tarnish the conscious nonprejudiced self-image.

Evidence for aversive racism comes from a number of studies designed to show subtle white bias under ambiguous conditions. Dovidio and Gaertner describe a typical study in the July 2000 issue of *Psychological Science*, the flagship journal for the American Psychological Society. White college students are shown resumes of applicants for a job and are asked to say whether they would recommend the applicant for the job and to rate on a scale of one to ten the strength of the recommendation. On some resumes, the candidate is black, and on others, white, but otherwise they are identical. When the candidates are highly qualified, the students rate the black candidate as equal to, or slightly higher than, the white candi-

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date. When the candidates are weakly qualified, both whites and blacks are given much lower ratings, but the black applicant is still rated as equal to, or slightly higher, than the white one. However, when the resume is ambiguous, that is, when the candidate's qualifications are marginally acceptable, the black candidate is rated significantly lower than the white one.

According to aversive-racism theory, the explanation for these results is that when the judgment is clear-cut, either positive or negative, aversive racists cannot discriminate against blacks without violating their liberal self-image. However, when the situation is ambiguous, aversive racism can operate because it can be rationalized on nonracial grounds.

Experiments such as this one have been replicated many times with equivalent results. Clearly the results reveal subtle discrimination, but are they proof of racism? Placed in an ambiguous situation and forced to make judgments, college students, like most people, often rely on extraneous information. For example, it is well known in social psychology that people tend to favor others in their own group, all other things being equal. This "in-group bias" could explain the results of the biased evaluation experiments. Although in these experiments, in-group bias and aversive racism have the same results, they are not identical. If people are biased in favor of members of their own team, college, town, state, and religion, a preference for a white candidate, all other things being equal, might reflect a comparatively mild in-group bias, not racism. In fact, in-group bias is one of the explanations Dovidio and Gaertner suggest for their data, but they nevertheless do not question the aversive-racism explanation. Furthermore, almost all subjects in aversive-racism experiments are college students. What the experimental results imply for the larger population of adults, or for the specific groups that actually make the decisions about hiring and college admissions, is unknown. Moreover, all the subjects are white; apparently only whites can be aversive racists.

Like modern racism, aversive racism considerably broadens the criteria for racism. After all, the aversive racists did fairly evaluate the highly qualified and the poorly qualified black candidates. Furthermore, the "mild discomfort" of the aver-

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sive racist is a far cry from the hostility of the traditional racist, just as acts of avoidance do not approach vile epithets, and a belief in undeserved cultural advantage is vastly different from theories of racial superiority. Nevertheless, by theoretical fiat, nearly half of all white Americans, by some estimates, have been stigmatized as racists.

Aversive racism guarantees that no white person can ever be sure of being free of racism. Sincere beliefs in racial equality, compensatory programs, and nondiscrimination are no proof of innocence, because aversive racism often coexists with such beliefs. Additionally, suppose you are a manager who treats all your employees, white and black, with absolute equality. Are you then free of aversive racism? Not quite. According to the concept of "recategorization," aversive racism can be reduced by mentally transferring blacks from the "out-group" into the "in-group," where they will benefit from in-group bias. Thus, your lack of bias against your black employees can be attributed to your recategorizing them as "employees of my company," and is therefore no proof that you will not show aversive racism toward blacks away from work.

Again, like modern racism, aversive racism can be used to impugn opposition to policies such as school busing and racial preferences in hiring and college admissions. It is argued that nonracial objections to these policies are rationalizations used by aversive racists to justify and obscure their racism. Similarly, advocates of race-based policies have used aversive-racism theory to bolster their causes. They argue that since even political liberals who consider themselves unbiased can subtly discriminate against blacks without knowing it, it is useless to rely on a prohibition of deliberate discrimination. Just outcomes in employment and college admissions require affirmative action, not just efforts at nondiscrimination.

The concept of aversive racism is not confined to the research lab. Last February, a professor at Stonehill College who claimed to be a victim of aversive racism successfully sued the college for racial discrimination and was awarded back pay and $150,000 for emotional distress by the Massachusetts Commission Against Discrimination. In describing aversive racism, his lawyer said, "It's the new face of racism. It's one that just overlooks rather than attacks. The theme of our

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case was that this was the face of racism as we move into the twenty-first century." Likewise, the Defense Department Equal Opportunity Management Institute, which trains officers on how to eliminate racism in the military, includes aversive racism in its curriculum and employs social psychologists who research aversive racism to serve as consultants.

Implicit stereotypes

A third research program that measures latent racism is based on a well-known principle of cognitive psychology. This principle holds that we more rapidly recognize and process words or images when they are associated with one another. Typically, subjects are first shown an image or word called the "priming stimulus," which may be displayed so fast that subjects are not conscious of it. Then subjects are presented with a word, the "target word," about which they are asked to make a specific judgment as rapidly as they can—for example, "Is the target word a noun or an adjective?" It is commonly found that when the priming stimulus is an image of a fruit or the word "fruit," reaction time for the judgment will be faster for the target word "apple" than for the word "wheel." Conversely, when the priming stimulus is "car," reaction time is shorter for "wheel" than it is for "apple." By exploring our reaction times in this kind of experiment, psychologists seek to map our mental associations.

Social psychologists have adapted this experimental format to the study of race relations. In a typical experiment, as described by William Cunningham in the March 2001 issue of *Psychological Science*, the priming stimulus may consist of an image of a white person or a black person, or the words "white" or "black." The target words include words associated with negative black stereotypes such as "lazy," "uneducated," and "aggressive," as well as positive words such as "friendly," "loyal," and "honest." The results of these experiments have been somewhat inconsistent. Some researchers have found that the reaction times of white participants are faster by about one-hundredth of a second when white priming stimuli are paired with positive words than when paired with negative words. This result indicates an in-group positive association consistent with the in-group bias found in the aversive-racism

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studies. Other experiments have found faster reaction times both when white priming stimuli are paired with positive words and when black priming stimuli are paired with negative words than when vice versa. Still others have found faster reaction times only when black priming stimuli are paired with negative words.

Some social psychologists interpret these results to mean that white subjects either have pre-existing associations between whites and positive traits, or between blacks and negative traits, or both. These associations constitute what psychologists call "implicit stereotypes," "implicit" because the subject has not explicitly verbalized the stereotypes and may even be unaware of them. According to their theory, these implicit stereotypes are evidence of racial prejudice because when whites encounter blacks, negative implicit stereotypes are "activated," causing them to unconsciously treat blacks in negative ways.

The assumption underlying this reasoning is that white persons who show an implicit association between, say, "black" and "lazy," not only make this association but also believe it. Yet most Americans are aware of negative racial stereotypes; it is very possible that people might form such mental associations without believing in them at all. Indeed, the psychologists who perform these experiments themselves could not have chosen the appropriate target words without being cognizant of negative racial stereotypes. Even blacks show implicit negative stereotypes about blacks, although they reject these stereotypes on explicit questionnaires.

Though these negative associations seem to be poor evidence of racial bigotry, social psychologists have persisted in searching for a connection. They have tried repeatedly to correlate implicit stereotypes with other measures of racism, but with little success. Psychologists have, however, found one indicator that strongly correlates with implicit stereotypes. In an experiment described in the September 1997 issue of the *Journal of Experimental Social Psychology*, white subjects participated in an implicit-stereotype experiment and then answered questionnaires designed to discover modern racism and old-fashioned racism. They were also interviewed by two experimenters, one white and one black. During the interview,

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the number of times the subjects blinked and the number of seconds they made eye contact with the interviewer were measured. At the end of the experiment, the subjects were asked to rate the two interviewers. It was found that implicit stereotypes did not correlate with scores on modern racism or old-fashioned racism scales; nor did implicit stereotypes correlate with (aversive racist) negative evaluations of the black interviewer. However, scores on the implicit-stereotype experiment did predict the number of blinks and, inversely, the eye-contact time during the interview.

What does this mean? Note that the explicit measures of racism, that is, the modern-racism and the old-fashioned-racism scores, as well as the evaluations of the black interviewer, had no connection to blinking and eye contact. Furthermore, the subjects were unaware of any changes in their blinking and duration of eye contact with different interviewers. Nevertheless, the researchers, relying on earlier studies, interpreted higher levels of eye contact to reflect greater attraction, intimacy, and respect, while higher rates of blinking were interpreted to mean higher levels of "negative arousal and tension." They concluded that implicit-stereotype scores are good predictors of spontaneous discriminatory behaviors (such as blinking and eye contact) that are less under conscious control, while explicit measures of racism are good predictors only of more deliberative prejudiced actions, such as evaluations of others and answers to surveys. In this way, the three contemporary measures of racism have been brought into congruence.

Blinking at racism?

Even if we grant that eye contact and blinking are, as experimenters propose, indicators of intimacy and tension, it is not evident that lower levels of intimacy and greater levels of tension with the black interviewer reflect antiblack feelings. White college students might feel more tension and less intimacy with a member of any group they have less contact with, and they might be fearful of accusations of racial insensitivity when interacting with the black interviewer.

This body of research lowers the bar for racism even further than the modern-racism and aversive-racism standards. Even individuals who score low on modern-racism and aver-

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sive-racism tests may still be found to harbor antiblack sentiments, as measured by a difference of a hundredth of a second in their reaction times, or in the number of times they blink, or in the number of seconds they maintain eye contact with a black interviewer. And they would never know it (although you can test your own implicit stereotypes on the Web at: http://www.yale.edu/implicit/).

Predictably, psychologists have used these results to support affirmative-action policies. They argue that white interviewers for jobs and college admissions may *think* they are unbiased and equally friendly to black and white applicants, but they very likely harbor unconscious negative stereotypes, and may unwittingly blink more and maintain less eye contact with black interviewees. Black applicants, sensing this tense and unfriendly behavior, may feel distrustful of the white interviewer, resulting in a poor performance in the interview and a lower evaluation. Thus it is claimed that the intention not to discriminate is not sufficient to insure nondiscrimination; instead, affirmative action is necessary.

Taking this logic a step further, civil rights attorney Deana Pollard, writing in the October 1999 issue of the *Washington Law Review*, recommends that employers test their employees for implicit stereotyping and remove those who show unconscious bias from any decision-making authority over minority employees and applicants. Imagine the prospect of employees being compelled to respond to subliminal stimuli and subsequently judged on their reaction times, to the hundredth of the second! Pollard feels that this "limited infringement on privacy" is a small price to pay to combat discrimination.

Defining racism down

Writing in the winter 2000 issue of the *Cornell Journal of Law and Public Policy*, law professor Ann McGinley succinctly describes the potential legal and political consequences of social psychological research on contemporary racism. Citing the research on modern racism and aversive racism, she argues:

> Given the vast psychological ... evidence that unconscious processes account for a great deal of discriminatory attitudes and behavior, the courts and the Congress must recognize the evolution by incorporating the powerful evidence demonstrating that

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racially and sexually discriminatory behavior results from unconscious as well as conscious prejudice into the law and by explicitly broadening the definition of "intentional" to include unconscious behavior.

Racism, having suffered a slow death over the past four decades, is thus experiencing a resurrection at the hands of social psychologists. By reconstructing the concept of racism in the forms of modern racism, aversive racism, and implicit stereotypes, social psychologists have broadened the population of racists to include most white Americans. Because much of the new racism is unconscious, they have guaranteed that no white American can ever be confident of being free of racism. They have ensured that racism will endure as long as Americans disagree on racial policies, because one side of the debate will be declared racist. They have used their theories to bolster the case for, and discredit opposition to, controversial policies such as affirmative action. As a result of their research, nervous employees who blink one too many times may soon be branded as prejudiced.

Both the design and interpretation of these experiments are open to question. The politicization of modern-racism experiments is inseparable from their circularity: Having decided that there can be no principled opposition to affirmative action and other race-based policies, researchers construct questions with subtly charged language and conclude that politically conservative responses are racist. Moreover, social psychologists' inclusion of the slight shifts in behavior found in aversive-racism and implicit-stereotype experiments—shifts which have several possible explanations—under the umbrella of racism seems an unwarranted and unfair logical leap. The extension of the word racism to cover ambiguous phenomena never before included in the traditional understanding of the term is thoroughly misleading, and the use of the diluted term to delegitimize certain principled political positions is highly suspect. This misuse of scientific research to further an ideological agenda has unfortunate consequences for science and for race relations in America.

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In Rawls's wake

MARC F. PLATTNER

JOHN Gray is one of Britain's most publicly engaged, provocative, and prolific political thinkers. Over the past two decades he has written or edited over a dozen books, including expositions of his own thought and studies of such thinkers as John Stuart Mill, Voltaire, Friedrich Hayek, and Isaiah Berlin. He has become, in turn, a Thatcherite, a critic of Thatcherism from both the traditional Right and the environmentalist Left, and an early supporter of Tony Blair and New Labour. By his own account, his theoretical position has shifted almost as much as his politics. Yet liberalism, in the broadest sense of the term, has remained the focus of his thinking.

In the preface to his 1995 volume, *Enlightenment's Wake*, Gray stated that this work represented the completion of "a decade's thinking about liberalism, its ground, scope and limits." Its final chapter, which draws heavily on Nietzsche and Heidegger, concluded that the whole modern or Enlightenment "project" has inevitably self-destructed, along with the liberal political thought that embodies it. Yet it seems that John Gray simply cannot let go of liberalism. He has now published a new book, *Two Faces of Liberalism*,† and as its title suggests, the book seeks to resuscitate a hitherto insufficiently appreciated side of liberalism that can retain its relevance and appeal, presumably even after the failure of the Enlightenment project.

What are liberalism's "two faces"? Arguing that liberal regimes have their origins in "a project of toleration that began in Europe in the sixteenth century," Gray begins by distinguishing two different aspects of liberal toleration:

> From one side, toleration is the pursuit of an ideal way of life. From the other, it is the search for terms of peace among different ways of life. In the former view, liberal institutions are seen

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> as applications of universal principles. In the latter, they are a means to peaceful coexistence. In the first, liberalism is a prescription for a universal regime. In the second, it is a project of coexistence that can be pursued in many regimes.

Among the great figures in the liberal tradition, Gray puts Locke and Kant on the first side, and Hobbes and Hume on the second. Among more recent thinkers, John Rawls and F. A. Hayek are assigned to the first camp, and Isaiah Berlin and Michael Oakeshott to the second. Later in the book, Gray tends to use the label "Rawlsian" for the contemporary liberal universalism that he rejects, and "neo-Hobbesian" for the alternative version that he favors. Though this dichotomy may well capture Gray's disagreement with Rawls, it would take a good deal more argument than he provides to demonstrate that it adequately characterizes, for example, the differences between Hobbes and Locke.

GRAY also describes his preferred version of liberalism as one that is guided by the pursuit not of "rational consensus" but of *modus vivendi* among differing ways of life. The philosophical underpinning that Gray offers for the goal of *modus vivendi* is the doctrine of "value-pluralism," which holds that "there are many kinds of good life, some of which cannot be compared in worth." One of the book's four chapters is devoted to explicating this alleged middle ground between universalism and relativism, but many readers will remain unconvinced that Gray has found a rock on which to stand, much less a territory that he can successfully defend.

For Gray, however, value-pluralism is not only a "truth of human life" but also "an inescapable social condition" in the contemporary world. The commingling of formerly separate and distinct ways of life as a result of international migration and new communications technologies has brought the fact of pluralism home to us. Distinct ways of life have interacted with one another to the point where "it may be difficult to tell the difference between them. Indeed, since many people belong to more than one, it may be impossible to distinguish them completely."

While Gray's defense of "value-pluralism" on philosophical grounds is unconvincing, even more so is his notion of its special applicability to the contemporary world. It may indeed be true that mass populations are more aware today than ever before of the way people live beyond their borders, but the

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discovery that different peoples hold different "values" and follow different ways of life is hardly a recent one, as any reader of Herodotus or the Bible can attest. Moreover, the effect of the contemporary commingling of these ways of life has been, as Gray himself seems to recognize, to make them more similar. What can it mean to say that people "belong to" more than one way of life? It is common today, of course, to speak of people having multiple "identities"—a French lesbian Buddhist poet, for example. But can such a person meaningfully be said to have different ways of life corresponding to each of these different identities?

Though Gray does offer a "loose bundle of criteria" for identifying ways of life, along with some musings on the difficulty of defining them, he never really attains clarity on this key aspect of his argument. Moreover, it remains unclear why value-pluralism implies that *modus vivendi* among different cultures should be the goal of political life. The consequence of *modus vivendi* within societies is obviously to encourage the intermingling of cultures and thus to erode the differences among ways of life. If every country were to be guided by the goal of *modus vivendi*, it seems inevitable that societies around the world would increasingly become more alike. Indeed, that seems to be the predominant (though certainly not the only) trend in today's world, as societies become more open and tolerant of other ways and less devoted to their local and national cultures. One might expect a value-pluralism founded on respect for real diversity and genuinely different ways of life to deplore this tendency, and instead to insist that societies try to close themselves off to some extent in order to preserve more of their national distinctiveness.

GRAY, however, resolutely avoids this path. In the first place, he seems to believe that there is room for great diversity among regimes that meet the standard of *modus vivendi*. In particular, he holds that these need not be liberal regimes, and that liberal regimes are not the only ones with claims to legitimacy. In fact, "*Some* non-liberal regimes satisfy *some* standards of legitimacy better than *some* liberal states" (emphasis added). Yet when it comes to presenting concrete examples of legitimate, nonliberal regimes, he has very little to offer. Gray cites both the Ottoman and Hapsburg empires as tolerant regimes, and Castro's Cuba for having "a better record of protecting the interests of its worst-off members than some advanced countries." (In all these cases, it is only fair to point

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out, he is also careful to emphasize ways in which these regimes fall short of his standards of legitimacy.) This is hardly an impressive list or a ringing endorsement of nonliberal versions of *modus vivendi*.

Similarly, when Gray sets forth his fullest account of what makes regimes illegitimate, there is not a word in it that could not have been penned by a conventional liberal:

> Regimes in which genocide is practised, or torture institutionalized, that depend for their continuing existence on the suppression of minorities, or of the majority, which humiliate their citizens or those who coexist with them in society, which destroy the common environment, which sanction religious persecution, which fail to meet basic human needs in circumstances where that is practically feasible or which render impossible the search for peace among different ways of life—such regimes are obstacles to the well-being of those whom they govern. Because their power depends on the infliction of the worst universal evils, they are illegitimate, however long-lived they may be.

And when Gray gives examples of such illegitimate regimes, we find at the top of the list South Africa under apartheid (because of its inequality) and the regimes of Stalin, Hitler, and Mao (because of their denial of "vital freedoms" to all).

In short, for Gray, the key goals that a regime must pursue in order be considered legitimate turn out to be freedom, equality, toleration, and peace. And however much he may proclaim that his criteria for legitimacy are based on fundamental human interests rather than "the free-standing rights of recent liberal orthodoxy," the fact remains that these four goals constitute the very essence of liberalism. Politically speaking, what else is the liberal project—or the Enlightenment project, for that matter—but an effort to achieve freedom, equality, toleration, and peace? As long as Gray's notion of a regime based on *modus vivendi* remains dedicated to these same goals, it is likely to look very much like liberalism.

In this respect, it is worth noting that Gray is surprisingly silent about East Asia, even though in *Enlightenment's Wake* he had cited Singapore and China as promising models of regimes that could meet requisite standards of morality, social stability, and economic development without adopting liberal institutions or liberal social norms. In *Two Faces of Liberalism*, however, he notes that post-Mao China "may protect some of the vital interests of the majority; but insofar as it is engaged in genocidal repression in Tibet its legitimacy becomes questionable." And while he defends Singapore's prohibition

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of proselytism for the sake of preserving freedom of worship and social peace, he no longer holds up this small island nation, which combines an open-market economy with severe limits on individual freedom, as a model of *modus vivendi*. No doubt, Gray's change in emphasis partly reflects the wider disillusionment with the East Asian model brought on by the economic crisis of the late 1990s, but I suspect that he also finds some of the authoritarian features of these regimes difficult to swallow.

At bottom then, it makes sense for Gray to return to the liberal fold, even if under the banner of neo-Hobbesianism. His real target is not liberalism as such but academic, Rawlsian liberalism—for which the scorn he expressed in *Englightenment's Wake* has not diminished. Many will surely sympathize with his reasons for disliking the Rawlsian school—for its legalism, its abstractness, its parochialism, its distance from politics, and its neglect of the non-Western world. But outside of philosophy departments and some law schools, its impact has been slight. Moreover, as Gray himself recognizes in his concluding pages, "In some ways, the neo-Hobbesian conception I have outlined resembles the political liberalism advocated by John Rawls." Before writing his next book, perhaps Gray should ponder more deeply what his own thinking shares with that of his *bête noire* and the implications of that commonality.

Roger Starr
1918 - 2001

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Politics as usual

ELIZABETH ARENS

THE terms "radical Left" and, more recently, "radical Right" have become stock phrases in American political debate, conjuring images of intemperate ideologues as heedless of prudence as they are of majoritarian will. Now, however, we find two authors who embrace the term radical and, clearly delighting in the paradox, wed it to the far more reputable concept of the political center. These authors are Ted Halstead and Michael Lind, and their book is *The Radical Center: The Future of American Politics*.† Halstead is a policy man and creator of think tanks whose most recent project is the New America Foundation, a Washington-based center for iconoclastic young thinkers. Lind, a senior fellow at the New America Foundation, is a prolific author who rose through the ranks of the political Right and then made his name by denouncing his earlier patrons. Familiarity with the career of each author suggests that Halstead's contribution to *The Radical Center* lies in its advocacy of the use of market mechanisms to achieve social democratic outcomes, as well as in most of the book's actual policy details. Lind has contributed the bold rhetoric, the sweeping aspiration to remake America, and the air of contempt for people on both sides of the political spectrum who see things differently from him.

Though its title arouses expectations that the book will describe some powerful but dormant sector of the voting public, *The Radical Center* is principally a set of policy proposals. Many of the problems Halstead and Lind raise are real, and certain aspects of their program deserve attention. At the same time, their language is deceptive and the bulk of their proposals are misconceived. The authors tout their program as a means to reinvent the "three distinct realms of society" in America—the "market, state, and community"—but their ideal

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is largely reducible to the individual and a powerful, benevolent central government.

LIND'S combative sensibility will be known to readers of his 1996 book *Up From Conservatism*, in which he attacked his former colleagues with relish and in near-conspiratorial language. His high ambitions were most prominent in an earlier work, *The Next American Nation*, which laid out his unique understanding of the American past, his philosophy of liberal nationalism, and his vision for the future. Jumping nimbly through diverse areas of American history, Lind argued that the United States had evolved through three phases distinct enough to be seen as three separate nations, established by "three genuine revolutions": the War of Independence, the Civil War and Reconstruction, and the civil rights revolution.

These nations, as Lind presented them, were racial or cultural nations, each with its own "consensus" on the subjects of "race, culture, and citizenship." The first American nation Lind called "Anglo America": English culture predominated, and most citizens understood their country as the supreme embodiment of Anglo-Saxon liberty and the final destiny of the Anglo-Saxon race. In the second nation, "Euro-America," mass immigration, needed to sustain industrialization, and gradual assimilation began to blur the boundaries between Anglos and other European immigrants. The third nation, "Multicultural America," which arose as a perversion of the ideals of the civil rights movement, is characterized by a newly tribal understanding of its population and an obsession with "identity." These concerns distract from the rise of rapacious capitalism and a new white "overclass": "an extraordinarily homogenous, powerful, and well-organized group," characterized by "hypocrisy and cunning," which "pursue their own narrow economic agenda at the expense of most other Americans."

In *The Radical Center*, to give their proposals an air of historical necessity, Halstead and Lind resurrect the three-nations schema. But the three nations they now describe have boundaries and content very different from (and far less controversial than) Lind's original version: They are now technological and economic nations in which questions of race, culture, and identity barely feature. *The Radical Center*'s first nation is described as a decentralized agrarian republic with small pockets of manufacturing. The second nation was brought forth by the invention of the steam engine, which stimulated more widespread and intensive industrialization. The material

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advantages of the northern states enabled them to win the Civil War and embark on a program of economic development and political centralization. New taxes were levied, railroads were built, and the laws surrounding corporations were changed to encourage concentrations of capital.

The third nation, in which we reside, was also summoned by advances in the ability to harness power, most especially electricity and the internal combustion engine, which created "the basic infrastructure of contemporary civilization." The social strains that resulted produced the progressive reform movement and, eventually, the New Deal state, in which the federal government not only enacted new labor laws and guarantees of social insurance but also actively wielded new technologies through highway building, electrification, and other such projects.

Thus *The Radical Center*'s version of the third republic commences with the New Deal rather than the Black Power movement and is personified by FDR, not Malcolm X. Nevertheless, it is just as ripe for overhaul in a new revolution that will yield a Fourth American Republic. The problem, Lind and Halstead write, is that "the New Deal version of the American republic under which we still live is rapidly being rendered obsolete by the new technological, economic, and demographic circumstances of the 21st century." The New Deal consensus "has outlived its usefulness," outpaced by "the twin revolutions in information technology and biotechnology, the globalization of trade and commerce, the latest wave of immigration, and the rapid graying of our population."

THE dawning of the Information Age, Lind and Halstead argue, requires a new politics and a new social contract. In creating this "Information Age political program," the authors claim to take a single principle as their guide: "increasing the amount of choice available to individual citizens." Americans deserve more "voting choices, educational choices, medical choices, retirement choices, lifestyle choices, and career choices." This revolution in individual choice must be accompanied by a greater assumption of responsibility: "freedom and responsibility must expand in tandem."

These principles, *The Radical Center* argues, compel the reinvention of many of our social institutions to make them "citizen-based." Halstead and Lind are ambitious. They advocate converting Social Security from a transfer to a savings model, what the Republicans call "partial privatization." By their proposal, saving would be mandatory: Americans would

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be required by law to place a certain percentage of their incomes in an investment account to be drawn upon after retirement. Those with lower incomes would see their accounts "topped off" by government subsidy. Health insurance would be removed from the purview of employers and made citizen-based and, again, mandatory. All citizens would be required to purchase some minimum level of health insurance, with the government contributing a substantial portion of the cost for poorer Americans. To expand capital ownership, the authors propose granting a $6,000 "nest-egg" to each citizen at birth. They advocate simplifying the tax structure, doing away with corporate taxes as well as most tax deductions and credits. State sales taxes should also be eliminated, replaced by a federal consumption tax, which could be made highly progressive by exempting the first $15,000 of per-year expenditure. In the education sphere, Halstead and Lind recommend universal public school choice, but they insist that this change be accompanied by equalized per-pupil expenditure. This latter goal should be accomplished by replacing as the basis for school funding state property taxes with federal money granted to individual students.

IT is not immediately obvious in what way many of their proposals are necessitated by the rise of information technology, but Lind and Halstead circumvent this difficulty by making frequent reference to the "Information Age" and the "twenty-first century." It may also not be evident to all how individual choice and responsibility are advanced by the Radical Center agenda. After all, in the authors' Fourth Republic, savings and insurance will be required by law. Citizens will not have the choice to abstain, nor will they face the responsibility of that decision. The government will also carefully control the uses to which the $6,000 "nest-egg" will be put. It appears that New Deal paternalism has not been left behind after all. (This conclusion should not surprise, given Lind's assertion in *The Next American Nation* that the concept of choice was the rhetorical weapon of "the feudal right.")

The ultimate purpose of this paternalism is to create a society with both a dynamic market economy and a high degree of security for workers. Halstead and Lind praise the "creative destruction" of the marketplace, but demand that it "destroy less-productive jobs and less-destructive business, without destroying lives and livelihoods." Under their proposals, getting laid off or switching to temporary work would not

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mean losing health benefits for oneself and one's family. Economic change would be less threatening, as Americans entering the workforce would already possess a store of savings to apply to training and retraining. Wealth inequality would be reduced, since each American would have capital assets and could benefit from the stock market's rise. Indeed, just as the New Deal was said to have "saved capitalism from itself" in the desperate years of the 1930s, Halstead and Lind argue that their proposals will enhance our economic vitality. Worker insecurity and resentment will abate, efforts to enact protectionist legislation will wither, and the survival of the capitalist system will be secured.

Though at times couched in this fashion as ultimately conservative, the authors' program, in sum, does amount to something radical: the federalization of great areas of civic life presently undertaken privately or by states. Local taxes would be replaced by a national tax "rebated" to the states. Education would be funded not by states but, via students, by the federal government. Is it not probable that this money would soon be accompanied by a substantial degree of control? The eventual consequence of these changes would likely be the reduction of the states to mere administrative units. This prospect does not appear to frighten the authors, but it should disturb anyone who still takes seriously the concept of federalism.

Another conspicuous feature of the Halstead-Lind program is its redistributionary character. The authors favor the "safety net" over the "universal provider" model, which essentially means that the wealthy generously subsidize the less wealthy while receiving nothing themselves. Halstead and Lind constantly emphasize the progressive nature of their tax proposals, and they often appear to evaluate policy by a single criterion: Do the immediate material benefits accrue to the poor or the rich? Thus, though republican theorists for centuries have emphasized the importance of widespread property ownership, Halstead and Lind reject the home mortgage tax deduction, asking "Why should the government require all taxpayers to pay subsidies to rich homeowners?" Though they admit the need to stimulate savings and investment, the lower tax rate on income from capital gains meets with similar disapproval. Elsewhere, the authors insist that donations to organizations that provide direct material assistance to the poor should carry a higher deduction than those to "institutions—such as private universities or the opera—that disproportionately benefit the wealthy." Such relentless casting of all matters in

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terms of rich vs. poor suggests a remarkably impoverished understanding of civic life. Moreover, it is interesting that a book which expresses so much respect for market mechanisms gives no deference at all to market outcomes. The authors present no philosophical argument as to why some Americans deserve to be subsidized by others. Nor do they address the damage to incentive structures that would be wrought by a knowledge that for every loss of income, one will be "topped off" by the feds.

ACHIEVING the Radical Center policy agenda, Halstead and Lind believe, will require a similarly radical political revolution. They are pessimistic about the prospects for bold reform under our current system, claiming that little socially constructive legislation has emerged from Washington since the 1960s. Their diagnosis of the problem, one that runs contrary to the currently popular "two nations" thesis, is that each of our two major parties has been captured by an unrepresentative extreme: social conservatives and economic libertarians on the Republican side, and "a constellation of aggrieved minority groups and public employee unions" on the Democratic side. These groups wield power "far out of proportion with their actual numbers in the general electorate." Dominated by inflexible ideologues, Democrats and Republicans are incapable of producing fresh ideas or working together to achieve reform.

To return alienated voters to active participation and break the chokehold of extreme Left and Right, the authors propose significant changes in the electoral system. They advocate "instant runoff voting," by which voters rank three or more candidates in order of preference on their ballots. Thus one could vote for Ralph Nader with less of a fear of throwing the election to George W. Bush. Another of their suggestions is the multimember district, in which voters would be able to rank a large number of candidates from many different parties for a several-member delegation to Congress. To tackle the financial grip of party establishments and wealthy interest groups, Halstead and Lind favor requiring TV and radio stations to give free air time to candidates. These changes, they hope, will lead to the rise of new parties, or to a more fluid two-party system that allows for greater intraparty ideological diversity.

Here as elsewhere, the authors appear to overreach. The standard political science analysis of American politics maintains that the two-party system keeps candidates firmly in the center, a view which the assiduous courting of "swing voters"

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over the last few elections would seem to support. Moreover, variations of the policy reforms that Lind and Halstead propose in *The Radical Center* have in fact arisen within the major parties, albeit somewhat tardily. School choice has come to a vote in several states, and even Social Security reform is no longer unthinkable. Indeed, in their technophilia, their paeans to "choice" and "responsibility," and their preference for market means and egalitarian ends, the authors of *The Radical Center* often resemble the New Democrat wing of the Democratic party, which is hardly marginal or ignored.

Given this, is it likely that the Radical Center agenda will animate disaffected voters or produce a major realignment? The authors devote only brief attention to exploring the views of the electorate, the dynamics of recent elections, and the sources of voter distrust and disaffection. Instead, they employ the old trick of defining the center to be exactly the place where they themselves stand. Many alienated voters do occupy a space between extreme Right and Left, but it is a center quite different from Halstead and Lind's. These Americans tend to harbor a deep distrust of the federal government, which is seen as the servant of big business, welfare recipients, or both. It is highly unlikely that they would support the broad expansion of federal responsibility that the authors advocate. The Gen X technology entrepreneurs that Halstead and Lind also cite as a potential source of support might be receptive to some of their ideas about entitlement reform, but they seem indisposed toward an agenda so frankly redistributionary.

WHEN confronted with a manifesto of this nature, it is often valuable to speculate as to the book's intended audience. Who do Halstead and Lind hope will read *The Radical Center*? The language is fairly plain and the concepts not over-sophisticated, but the book seems far too policy-heavy for a general audience. But since it covers so much territory, the individual proposals are mere sketches, without much meat for true policy experts to sink their teeth into. Perhaps, then, the most likely intended audience is one of politicians and their staff searching for a few catchy slogans and novel ideas for the upcoming election. This would seem an odd conclusion about a book that calls for a popular insurgency, but such cynicism has been known to exist in Washington.

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Trading places

CHRISTINE CURRAN

NOW in its ninth printing, Barbara Ehrenreich's *Nickel and Dimed: On (Not) Getting By In America*† became a *New York Times* bestseller within weeks of its release, receiving wide media attention and a great deal of acclaim. The book's popularity is at least partially a result of its unique angle on the low-income working world. "In the spirit of science," Ehrenreich decided to become a low-wage worker herself, to see whether she "could match income to expenses, as the truly poor attempt to do everyday." As with any scientific experiment, there were a few rules: She refused to fall back on skills derived from her education or professional experience (claiming only a partial college education) and promised to accept both the highest paid job and the cheapest accommodations available. Over the course of a year, Ehrenreich worked her way through a number of minimum-wage and low-paying jobs in three different locales: as a waitress in Florida, a housecleaner and nursing-home aide in Maine, and as a Wal-Mart employee in Minnesota. Her conclusion?

> The working poor neglect their own children so that the children of others will be cared for; they live in substandard housing so that other homes will be shiny and perfect; they endure privation so that inflation will be low and stock prices high.... Guilt ... isn't that what we're supposed to feel? But guilt doesn't go anywhere near far enough; the appropriate emotion is shame—shame at our own dependency, in this case, on the underpaid labor of others.

While *Nickel and Dimed* was not primarily intended as an exposé of the service industry, some of Ehrenreich's best writing is reflected in her accounts of the trials and tribulations of working in this sector. It is a world of psychological questionnaires, employee drug tests, industrial-strength cleansers, bus pans, bedpans, bathroom breaks, side work, busy work, and

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the self-celebrating kitsch of corporate retail America. Life is seldom easy in this world, and Ehrenreich confronts a host of challenges, from the frustrations of finding a job (fairly easy in the tight labor market of 1998) and securing safe and affordable housing (a more difficult task), to the routine of navigating psychotic cooks, surly staff, and the exclusive culture of the employee "break room." Perhaps the most vividly described aspect of her experience is the discovery that so-called "unskilled jobs" actually require a good deal of work and can be fraught with frustration and difficulty.

The transition from upper-middle-class consumer to low-income server is indeed difficult, especially in an America described by the author as a "vaulting social hierarchy," one that supports "not just an economy but a culture of extreme inequality."

> What we do is an outcast's work, invisible and even disgusting. Janitors, cleaning ladies, ditchdiggers, changers of adult diapers—these are the untouchables of a supposedly caste-free and democratic society.

Despite the more pragmatic intentions of the author, *Nickel and Dimed* rapidly degenerates into unrestrained social commentary and what often seems like an endless tirade against the indignities of the low-wage working world. There is the "lowly and servile" nature of its positions, the "co-optative power of management," and, of course, the insatiable "greed" of corporate America. Masters and slaves—the rich and the poor—these are the two poles of Ehrenreich's world. Yet, in her attempts to portray American society in terms of caste and class distinctions, Ehrenreich glosses over several important factors.

Even in a democracy such as ours, in which an attitude of mutual equality prevails, perhaps there can be no authentic social equality between the rich and the poor. Nevertheless, there are a number of elements that mitigate certain aspects of inequality. The subject of economic mobility, which Ehrenreich barely broaches, is an important one, for it reveals the extent to which people are able to move up the economic ladder, as well as to what degree inequality, as measured in any one year, is evidence of inequality over the long-term. Studies show that income mobility in the United States is in fact quite substantial. Brookings Institution analyst Isabel Sawhill has estimated that, in any given year, 25 to 40 percent of the population moves to a new income quintile. These figures

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increase when longer periods are taken into consideration: About 45 percent change places over a five-year period and about 60 percent over a nine-year period. Data also show that levels of mobility are in fact highest among the poor. Three out of five families that fall into poverty one year are out of poverty in the following year, and only one in ten families stays in poverty for five years or more.

WITH all Ehrenreich's discontent, one almost expects her journey to conclude in a walkout or workers' strike. The reality is somewhat more mundane. *Nickel and Dimed* ends not with the chaos of social revolution, but with Ehrenreich's inability to pay her bills. But even here her "experiment" overlooks a few important variables. Stability and permanence are requirements for moving up the economic ladder, and sustained work experience brings with it pay raises, job training, and a resumé for future, better-paying employment. Yet Ehrenreich quits her job and packs her bags approximately every four months, abandoning the community ties, work experience and acquaintances she managed to develop along the way. Ehrenreich also goes out into her new low-income life alone, yet studies show that very few workers with poverty-level earnings live such an isolated or sporadic existence. The actual number of people who must support a household solely on a minimum-wage position hovers at about 1 percent of the American work force.

Though she means for us to see how "the other half lives," to understand the life of the "hopeless wage slaves," Ehrenreich is neither very thorough nor rigorous. We never get an accurate picture of the lives of the people she works with—the "outcasts" or "serfs," as she calls them—or the others she encounters on the periphery of her strange, new existence. Aside from a few glimpses into their work habits and overheard tidbits of conversation, their views and attitudes are largely homogenized by her prefabricated ideology.

In her concluding evaluation, Ehrenreich describes the terminal character of the "dead-end job" and the near impossibility of advancement. The working poor cannot get decent jobs because they "don't have cars ... for those who do have cars, there is the problem of gas prices, ... [finding] a baby-sitter ... not to mention the general hassle of getting around to fill out applications, to be interviewed." There are, in addition, "no Palm Pilots, cable channels, or Web sites to advise the low-wage job seeker." Considering all these barriers, one wonders how millions of immigrants ever did manage to find employment, raise their families, and succeed in this country.

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